Policy Options to Improve Standards for Garment Workers in Canada and Internationally

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- the extent to which the analysis and recommendations are supported by the methodology used and the data collected;
- the original contribution that the report would make to existing work on this subject, and its usefulness to equality-seeking organizations, advocacy communities, government policy makers, researchers and other target audiences.

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DEDICATION

This research draws heavily on the pioneering work of Amanda Ocran, who researched and wrote about the situation of homeworkers in British Columbia. Amanda died in July 1998, after a long battle with breast cancer. We hope this work in a modest way contributes to furthering her efforts to make visible the problems faced by homeworkers in Canada and to improve their conditions.

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EXECUTIVE SUMMARY

The globalized garment industry of the 1990s is continents wide and layers deep. Globalization and trade liberalization policies have caused profound changes not only in the international division and global organization of labour, but also in how, by whom and under what conditions our clothes are made in Canada and other countries.

The phasing out of Multi-Fibre Agreement quotas by the year 2005 and the elimination of all tariffs between Canada, the US and Mexico under NAFTA by 2003 will only accelerate these global processes. Although there is considerable debate about the specific impact of trade liberalization in the garment sector on particular countries in the South, there is general agreement that competitive pressures will increase on countries, manufacturers and workers to increase productivity and/or the speed of production, and to lower labour costs.

The consequences for the women who sew our clothes — the young women migrating from rural areas to export processing zones and maquiladora regions in the South, the immigrant women of colour recruited to a subcontract, home-based underground economy in the North — are precarious, virtually unregulated employment; intensive labour and excessive hours of work; inadequate wages and few legally required benefits; discrimination on the basis of gender, race and place of origin; and limited opportunities to organize and improve their situation.

In our paper, we look at a variety of possible responses to the deterioration of standards and labour practices in the garment industry caused by globalization, trade liberalization, restructuring and deregulation. These include:

- reforms to provincial Employment Standards legislation to make it possible to regulate the semi-clandestine sub-contract system of production in Canada's restructured garment industry, including joint and several liability to make retailers and manufacturers liable for the labour rights violations of their contractors, the right to make anonymous and third party complaints, and a central registry for homeworkers;

- alternative models of broader-based bargaining to allow homeworkers and contract shop employees in Canada to share some of the benefits of collective bargaining;

- company and multi-company voluntary codes of conduct involving civil society participation in the monitoring and certification of manufacturing facilities around the world;

- increased access to information for citizens and consumers on where our clothes are made and under what conditions, and on governmental support for overseas investment in garment manufacture; and

- federal government policies to encourage adherence to ILO and UN charters and domestic legislation, including preferential tariffs tied to development pacts, procurement policies giving preference to apparel produced in compliance with ILO standards, the exceptional use of product bans, labour rights criteria for government support for overseas investment, development assistance for Southern civil society groups involved in training on labour rights and gender issues and monitoring of labour practices in export processing zones.

We conclude that none of these responses are sufficient in themselves. Challenging sweatshop practices in the complex and many layered garment industry of the 1990s, requires a multi-layered strategy that addresses domestic legislative and enforcement issues, trade and foreign policy options, voluntary mechanisms to promote international standards, the need for increased citizen/consumer access to information, and the need for new organizing strategies.

In the final chapter we review the issues and policy options discussed in previous chapters and look at how policy proposals concerning domestic and off-shore labour practices and citizen/consumer access to information are interrelated. We evaluate the merits of the various policy options and attempt to priorize reform proposals relevant to particular forums and jurisdictions, based on their possible benefits for garment workers and their potential for generating public support, achieving government and industry action, and opening doors to further reforms.

In our paper, we give particular attention to the ongoing debate about the merits of voluntary codes of conduct. Rather than viewing voluntary codes as an alternative to government regulation or as a tool of privatization and deregulation, we examine how voluntary codes, along with independent monitoring and certification systems, could interact with, complement and reinforce government regulation and foreign policy tools. We conclude that government policies to promote adherence to ILO and UN charters — such as procurement policies, preferential tariffs and development pacts — could all be strengthened by the existence of a multi-company or industry-wide code of conduct with provisions for independent monitoring and certification of manufacturers.

We also note that the federal government could facilitate private sector/civil society discussions on possible solutions to sweatshop abuses, by responding positively to the call for a federal task on sweatshops. While the initial focus of a task force might be on the negotiation of an industry-wide or multi-company voluntary code of conduct with provisions for independent monitoring, certification and labelling, consensus could also be sought on proposals for government action that would complement and reinforce a voluntary code.

Lastly, we pose a crucial question that requires further attention, and which is not explored in this paper: To what degree are the federal and provincial governments, the women's movement, religious organizations, NGOs and trade unions in the garment sector and in the broader labour movement prepared to make the problems, issues and needs of women garment workers a priority, whether they work in overseas export processing zones or sweatshops here in Canada? Without the concerted support of all of these sectors, women working under sweatshop conditions will not be able to take action individually and collectively to improve their situation.

Introduction

Struggle is an essential part of development. Injustice has to be effectively fought. When a policeman beats and kicks a helpless vegetable vendor, he has to be opposed. When a contractor makes a garment stitcher labour for many hours and pays a pittance, struggle has to be launched against him. The government has to be pressured to include garment stitching in the schedule of the Minimum Wages Act. The ILO has to recognize the home-based workers as "workers," and pass a Convention for their protection. In order to be effective, struggle has to be carried out on all levels.

— Ela Bhatt, past General Secretary
Self-Employed Women's Association, India[1]

This paper examines policy options currently under discussion to challenge sweatshop abuses in the garment industry in Canada and overseas. Those of us involved in the research and writing of this paper have been active in coalition efforts to expose the increasing incidence of worker rights abuses in the global garment industry and promote improved conditions for garment workers in Canada and other countries. Working in coalition has exposed us to a variety of rich experiences of people working at different levels and with different constituencies in support of garment workers' rights. It has also convinced us of the need to bring together the experiences and policy proposals generated at the local, provincial, national, and international levels.

Our Focus and Methodology

One question has framed our investigation over the last months: Given the current context of globalization and restructuring, what convergence of employment standards, access to information, and trade policy proposals could challenge the deterioration of standards and working conditions for women garment workers domestically and off-shore, and strengthen women's capacity to improve their situation, without jeopardizing employment in Canada or in other countries?

This study is based on interviews and discussions carried out with union activists, government officials, community worker advocates, researchers, and policy analysts in Canada, the United States, the United Kingdom, Europe, Australia, Asia, Latin America, and South Africa. It also draws upon research, analysis, and policy work previously carried out in the different regions of Canada where garment production is currently concentrated, as well as in other countries.

Given the globalized nature of the economy, and the garment industry in particular, we feel it is essential that policy proposals developed in Canada take into account the experiences and proposals of counterparts in other parts of the world, as well as at the international level. We are convinced that overseas and domestic policies addressing labour rights abuses in the

garment industry are interconnected and must be seen as part of a coherent policy framework. We believe that policy proposals should be evaluated on the basis of not only their local, provincial, or national impact, but also in terms of their consequences for workers, communities, and societies in other parts of the world.

We have therefore engaged worker and community organizers and labour rights advocates in both the North and South in a process of comparing and assessing various policy options to re-regulate the garment industry and improve labour practices for women garment workers. Through that process, we have developed a set of policy proposals and options. We hope this study will help advance strategic thinking on how to reverse the present trend toward labour market inequality.

A Content Summary

Chapter 1 provides an overview of recent trends in the garment industry in Canada and globally that are encouraging the deterioration of wages and working conditions for women garment workers around the world. We begin by describing the lives of women who labour behind the label in Canada, Asia, and Latin America. These composite stories are based on research and testimonies from a number of studies and interviews carried out in the past few years. We then attempt to show how the various pieces of the puzzle that make up the globalized garment industry fit together.

We have chosen to focus on the situation of women workers in large contract factories overseas and that of homeworkers and women employed by subcontractors overseas and in Canada. These are the women who work in the sweatshops of the 1990s, where violations of international standards and local labour legislation are becoming the norm, where isolation and marginalization are most extreme and organizing is most difficult, and where the division of labour based on gender, race and ethnicity, migration and immigration/refugee status is most blatant.

We have also chosen to focus much of our attention on labour practices in overseas export processing zones and maquiladora factories, despite the fact that a great deal of production of garments for export and domestic consumption continues to take place in factories outside of export processing zones, and that much of that production is done by local manufacturers rather than foreign investors. We have chosen to do so because of the specific terms of investment in the zones and maquila factories that often allow foreign companies to ignore domestic labour legislation and international labour and human rights standards. These legal or informal exemptions from national labour legislation and international labour standards in export processing zones threaten to have a downward effect on the working conditions of garment workers worldwide. As well, export processing zones provide concrete examples of the impact of trade liberalization and deregulation policies on Southern garment workers. More research is needed comparing conditions and practices in export processing zones with those in domestic- and foreign-owned factories outside these free trade enclaves.

In chapter 2, we examine and compare policy options to challenge the increasing incidence of sweatshop practices in Canada's restructured garment industry. We focus our attention on the growing problem of labour rights abuses against immigrant women sewing apparel in small contract shops and on a contract basis in their own homes. The policy options we examine represent attempts to re-regulate a growing segment of the industry in which (due to the semi-clandestine nature of production) enforcement of existing employment standards legislation is becoming extremely difficult if not impossible. We give particular attention to a coherent package of proposals developed by a loose grouping of Toronto union organizers, academics, and community activists working closely with an association of homeworkers.

Despite enormous pressures on government to deregulate industry to attract and keep investment, and despite the tendency of many governments to use globalization as an excuse for failing to implement and enforce labour and environmental legislation, we believe government has a critical role to play in addressing labour violations and sweatshop abuses. This chapter explores how governments can better protect the rights of garment workers and represent the interests of society in making apparel companies accountable for their production labour practices.

In chapter 2, we also look at policy options to create new possibilities for contract shop employees and homeworkers to organize and gain some of the benefits of collective bargaining. On this issue, we must acknowledge our bias in favour of union representation as a means for workers to put forward their own demands and improve their situation. This bias in favour of union representation is however accompanied by a critique of the current practice of most Canadian unions in giving higher priority to the interests of already organized core workers and far less attention to the needs of the growing sector of unorganized, non-standard workers.

With this in mind, we examine and evaluate proposals for and experiences with different forms of broader-based bargaining that would allow non-standard workers, such as homeworkers and contract shop employees, to organize and gain some of the benefits available to core workers through traditional collective bargaining. These proposals and experiences include the Quebec decree system, proposals put forward in Ontario for broader-based bargaining by subsector or along chains of production, the Baigent/Ready proposal for sectoral certification in British Columbia, and a voluntary code of conduct being promoted in Australia to extend and reinforce that country's system of sectoral awards.

In chapter 3, we discuss and assess the use of voluntary codes of conduct as a tool to promote corporate accountability for overseas and domestic labour practices. In an era in which trade agreements are limiting national sovereignty and codifying the rights of transnational corporations, voluntary codes of conduct are being promoted as an alternative to government regulation. At the same time, codes of conduct are also being used by citizens' groups to hold apparel companies accountable for the labour practices of their contractors and to demand independent monitoring. As well, some national governments are facilitating the negotiation of multi-company and industry-wide codes of conduct and global monitoring systems.

In chapter 4, we examine government policy options to challenge sweatshop practices internationally. We begin by briefly describing the current and potential impact of regional and international trade agreements and trade liberalization policies on the garment industry in Canada and countries in the South. We then assess the viability of various policy options open to the Canadian government in the context of these regional and international trade agreements. These policy options include preferential tariffs rewarding compliance with International Labour Organization (ILO) labour rights and standards, development pacts tied to preferential tariffs, government procurement policies, product bans, labour rights criteria for the granting of government financing or subsidies to overseas investors, and development assistance in support of labour and gender rights training and capacity building for Southern participation in monitoring of labour practices. Rather than entering the debate about voluntary codes of conduct versus government action, we instead look at how voluntary codes and government policy might interact and reinforce each other.

Citizens' groups are playing an increasingly important role in pressuring apparel retailers and manufacturers to take responsibility for the conditions under which their products are made. In chapter 5, we look at some of the obstacles citizens and consumers face in obtaining information on production practices and labour rights abuses in the apparel industry, as well as on government financing and subsidies for overseas investors. We then examine and assess policy options to make this information more readily available.

In chapter 6, we review the issues and policy options discussed in earlier chapters, and look at how policy proposals concerning domestic and off-shore labour practices and citizen/consumer access to information are interrelated. We then evaluate the merits of the various policy options and attempt to prioritize reform proposals relevant to particular forums and jurisdictions, based on their possible benefits for garment workers and their potential for generating public support and achieving government and industry action.

We have provided an extensive bibliography organized by theme for those who want to explore these issues further.

Future Challenges

During our investigation, we were surprised at the lack of coordination of policy work and strategic thinking between groups and individuals focusing on issues related to domestic apparel production and their counterparts working on issues concerning overseas apparel production. We hope this study will provide a better understanding of the interconnections between overseas and domestic issues, and help to encourage consultation and coordination between those working on domestic and overseas policy areas.

In doing our research, we also discovered that important areas of primary research are currently being neglected. For example, there is currently very little reliable statistical information on homework and contract shop production in Canada's apparel industry. As

well, little research has been done linking Canadian retailers and the labour practices of their contractors and subcontractors in Canada and overseas. We feel strongly that more support needs to be given to primary research on homework and contract shop production in Canada, and on contract production for Canadian retailers in export processing zones and subcontract factories overseas.

Ultimately, the elimination of labour rights abuses in the garment industry will depend on the ability of the women who labour behind the label to organize themselves and put forward their own proposals for change. With that in mind, we have tried to include in this study some of the voices and organizing experiences of women garment workers. However, the impact of globalization and restructuring on garment workers, and particularly on Third World women and immigrant women of colour, means that they will need the active support of government, international institutions, and the solidarity of a broad coalition of social movement organizations and networks to help them achieve their goals.

Despite the fact that governments continue to argue that companies can regulate themselves through voluntary codes of conduct, this study starts from the assumption that the Canadian government has a critical role and responsibility to work in cooperation with retailers, manufacturers and contractors, unions, and consumers to challenge the growth of sweatshop conditions both in Canada and in the countries from which we import an increasing proportion of the clothes sold in Canada.

The federal government is currently being called on to convene a federal task force to look at possible remedies to the growing problem of sweatshop abuses in the garment and footwear industries. The government could take this opportunity to initiate a multi-stakeholder process to attempt to achieve private sector/civil society consensus on voluntary as well as governmental mechanisms to address the problem. We hope the recommendations made in this document will assist such a process by providing examples of how government action could complement and reinforce civil society/private sector initiatives to eliminate sweatshop abuses and promote respect for garment workers' rights in Canada and globally.

We urge the Canadian government to consider these proposals seriously and respond to growing public concern about the spread of sweatshop abuses in the globalized garment industry by adopting policies and taking action to promote improved labour practices at home and abroad.

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Endnotes

[1] *Growing from the Grassroots*, Report of the HomeNet Planning Workshop, Ahmedabad, India (October 1996).

CHAPTER 1

The Labour Behind the Label: How Our Clothes Are Made[1]

The Women Behind the Labels

Toronto, Canada
Susan is a homeworker.[2] She sews pre-cut pieces of cloth into finished garments in her home on an industrial sewing machine she had to purchase herself. Like most homeworkers, Susan sews clothes for a number of major Canadian retailers and labels, but she has never met anyone from the companies whose brand name garments she sews.

Susan is paid on a piece rate basis by a subcontractor, but she isn't paid for the two hours it takes to travel by subway and bus to pick up the pre-cut pieces and return the finished product by a specified time. Although the subcontractor speaks Susan's first language, Cantonese, he doesn't tell her the piece rate. She never knows how much she is being paid until she receives her paycheque. Often her cheque is late; sometimes it bounces.

Susan is a skilled sewer, but when she compares the piece rate she is paid and the hours she works, she calculates that she is only receiving $4.50 an hour, 65 percent of the legal minimum wage. In Ontario, homeworkers like Susan are legally entitled to 10 percent above the minimum wage, to compensate for their overhead costs. No matter how many hours she works, Susan does not receive overtime pay. Nor does she get the statutory holiday or vacation pay to which she is also legally entitled. Her employment is insecure; she only receives work when the contractors need her. When she does get work, it must be done right away, so she has to work quickly and without stop for long hours. During busy periods, she works as many as 75 hours a week.

When she is out of work, Susan doesn't receive Employment Insurance. Her employer considers her an independent contractor and doesn't make contributions to Employment Insurance or to the Canada Pension Plan.

When Susan first began working as a homeworker, she thought she wasn't entitled to the minimum wage because she was being paid by the piece. She didn't think the piece rates were fair, but she didn't know there was anything she could do about it. She needed the work, so she took the rate. Then Susan participated in a workshop on homeworkers' rights sponsored by the Toronto Homeworkers' Association.[3] She learned that she was covered by minimum wage laws and other provisions of the *Employment Standards Act*, such as overtime and vacation pay. However, she is reluctant to make a formal complaint because she knows that if she does, her present contractor will probably stop giving her work. In addition, she worries she won't get new contracts once other contractors hear that she has complained.

Like most homeworkers, Susan would prefer to work outside the home in a full-time, steady job. But there don't seem to be many of those jobs left. And besides, she has young children at home, and she can't find affordable childcare. Working at home does permit her to make money while looking after her children, but it also means her attention is always divided between work and childcare, which adds to her stress.

Susan hasn't always worked at home. She has also taken short-term jobs in small contracting shops, which is the only other kind of work she can find. The conditions in these shops aren't much better than working at home. Some of the sewing factories are in small, windowless rooms in suburban industrial malls; others are in basements or garages. In her last job outside the home, Susan worked in a small sewing factory with six other women. They worked for a few days or a few weeks at a time, depending on how much work was available. Here too, she was paid by the piece and often didn't make minimum wage. When there was work, she was regularly required to work up to twelve hours a day, six and sometimes seven days a week. Yet she received no overtime pay, statutory holidays, or vacation pay. There was nothing deducted from her paycheque for Employment Insurance or the Canada Pension Plan. When she was out of work, she didn't receive any Employment Insurance.

If Susan had been employed in the garment industry ten or fifteen years ago, she probably would have worked in a unionized factory. Her job would have been full-time, with more or less regular hours and steady pay. Her salary, though still low in comparison to other industries, would have been well above the minimum wage. In addition to benefits such as statutory holidays and vacation pay, which are guaranteed by law, she would also have been entitled to sick pay and other benefits negotiated by her union, including a pension plan. If her employer violated her rights, she could have filed a grievance through her union.

Shenzhen, China

Yin works in a garment factory in Shenzhen[4] a "special economic zone"[5] in Guangdong Province in Southern China adjacent to Hong Kong. The owners of the factory where she works are from Hong Kong. They had a factory there but moved their production to China a few years ago. Yin sews clothes for well-known North American labels.

Workers such as Yin are known as "mingong" or "peasant labourers." She left her rural village in search of work at the age of seventeen. She had to get a temporary resident's permit to be able to work in Guangdong. The company helped her to get the permit and then took a deduction from her paycheque to pay for it. To get a job, she also had to show a certificate proving that she was not married. She is now nearly twenty-five and will probably not be able to get another job in the factories. Once she has no more work, she will not get another residency permit, so she will have to go home.

Yin and all the other workers in the factory live in a dormitory behind the plant. She sleeps in a room with eleven other people, sharing double beds. Each person has about one square metre of living space. For as long as she works here, this will be her home. There are nearly 1,400 garment factories in the zone, employing about 130,000 workers, all living in crowded

conditions similar to Yin's. The cost for her meals in the dorm is deducted from her wages. Some factories are referred to as "three-in-one," meaning that the factory, warehouse, and dorm are all in the same building.

Yin doesn't spend much time in the dorm. She has only two days off a month and regularly works fourteen hours a day. Her work day starts at 7:30 in the morning and usually ends at 9:30 at night. During peak production periods, she sometimes works through the whole night. According to Chinese labour law, Yin is entitled to time and a half for overtime after eight hours, and double time on Saturdays and Sundays. But Yin and her co-workers aren't aware of what the labour law requires. She never gets time and a half for her overtime and regularly has to work more than the legal limit of overtime hours. The money she earns helps to support her family back home.

Discipline in the factory is strict and workers are fined for any violations of factory rules. There are fines for talking or getting a drink of water during work time, for arriving late, for refusing to work overtime, and for cooking in the dorms. If Yin misses three days of work in a row, the company will consider her to have resigned and she will have no job to return to.

San Salvador, El Salvador
Ana is eighteen years old.[6] She works in a maquiladora garment factory in the San Marcos free trade zone outside of San Salvador, the capital of El Salvador. In the busy season, Ana often works as long as thirteen hours a day, seven days a week, sewing pre-cut sleeves onto shirts. When the company says they need her to work on the weekend, she has no choice in the matter. If her child is sick and she misses one day, she gets a warning letter. If she gets three letters, she loses her job.

Ana doesn't like working these long hours and weekends, but her pay is so low that she and her children couldn't survive if she didn't work overtime. Her company pays her the legal minimum wage, but 513 colones or US$59 every two weeks is only enough to pay for bus fare to work and for her breakfast and lunch. She needs the overtime in order to survive beyond work, and to buy beans and corn to feed her family.

On a regular work day, Ana has to work quickly and steadily to meet her quota of 800 pieces. Every two hours the line supervisor checks to see how many pieces she has completed. If she is behind, he yells at her in a language she doesn't understand. Women who don't meet their quota are often hit or punished by being forced to sweep outside under the blazing sun for a full shift. The factory is terribly hot and ventilation is poor. Many of the women suffer respiratory problems from the fabric dust. Even though the company makes deductions for government health insurance, supervisors often refuse to give workers permission to leave work to see a doctor. Workers also have to get permission to go to the washroom. They need to get a ticket from the supervisor and are only allowed to go twice in a day.

When Ana first applied to work for the company, she was required to have a medical examination to prove she wasn't pregnant. When women get pregnant, the company finds a reason to let them go or to force them to resign. They don't want workers leaving for the three-month maternity leave, because it interrupts production and is costly since it means training new workers and paying maternity benefits to those on leave.

Although the factory is Korean-owned, the labels on the shirts are in English. Ana doesn't read English and doesn't know the names of the retailers she is sewing for. She does know the shirts will be sold in North American stores. Ana couldn't afford to buy the shirts she sews, and, besides, they can not be sold in El Salvador. Even working overtime, she would not be able to buy two shirts for the total salary she receives for a full week's work. When she shops for clothes for herself and her children, she goes to a store that sells second-hand goods imported from the United States.

The Global Garment Industry — Pieces of a Global Puzzle

Although Ana and Yin work in huge garment factories in El Salvador and China and Susan works at home or in small contracting factories in Toronto, Canada, all three are part of one giant global garment industry. The apparel and textile industries, when added together, make up the largest industrial employer in the world, and the apparel sector represents about half of that global industry.[7]

In the globalized economy, the garment industry has undergone a fundamental restructuring. Ten or fifteen year ago, it was the manufacturers — such as those in the old garment districts of Toronto or Montreal — who did the designing, marketed their samples to hundreds of retailers, and then produced the orders. Today, the industry is turned on its head. It is dominated by giant retailers and super-labels who design the clothes and then contract out the production of their apparel to manufacturing contractors around the world. These retailers and super-labels dictate the price of production and the turnaround time. The contractors around the world compete for orders.[8]

In Canada, most retailers have their production done through a vast global web of contractors and subcontractors. As retailing becomes globalized, the idea of a "Canadian" retail industry also changes. Year by year, huge US-based retailers are gaining control of an ever larger share of the Canadian market. In 1995, US-based retailers — Sears, Woolworth, Wal-Mart, the Gap, Winners, Costco-Price Club, Eddie Bauer, and Talbots — together accounted for nearly a quarter (23%) of the Canadian apparel market.[9] Wal-Mart is now Canada's second biggest department store, after the Bay, which also owns Zellers. Department stores account for about a quarter of apparel sales, while specialty clothing stores like the Gap, Woolworth

(Northern Reflections, Northern Traditions, Weekend Edition, Footlocker, etc.) and Dylex (Tip Top, Thriftys, Fairweather, and Braemar) account for nearly half.[10]

Until the 1980s, Canada's garment industry, like those in most other Western developed countries, was relatively protected by tariffs and quotas. Trade liberalization in the garment industry began in earnest with the Free Trade Agreement in 1989 and then NAFTA in 1994. By 1995, 42 percent of the $8.5 billion worth of apparel bought by Canadian consumers was imported.[11] Our imports in 1996 came primarily from China (20%), the United States (19%), and Hong Kong (13%). If we take China and Hong Kong together, they represent a third of garment imports into Canada by value.[12]

As protections for the Canadian industry were eliminated, many Canadian manufacturers simply closed down, unable to compete. Others laid off their sewers and used their knowledge and infrastructure to convert themselves into importers. As a result, Canada's garment production industry is increasingly composed of small contract shops and homeworkers. In the globalized economy, multinational retailers and super-labels are constantly searching out new opportunities to have their clothes made at a cheaper cost. Countries such as El Salvador, China, and Canada are forced to compete over who will accept the poorest wages and working conditions and allow the lowest labour, health and safety, and human rights standards. The lowest bidder gets the jobs.

Michael Piore, in his article "The Economics of the Sweatshop,"[13] attempts to explain some of the complexities of the distribution of garment production from a technical standpoint. His analysis is useful in understanding how large factories such as the ones where Ana and Yin work and the small sweatshops and homeworking that Susan knows co-exist in the global production system.

Piore argues that the garment industry is structured very differently from globalized heavy industries. While the design stage is highly technical, the actual production continues to be labour intensive rather than capital intensive. The sectors of the industry that produce large, standardized production runs of goods such as pyjamas, underwear, and T-shirts make use of more capital-intensive techniques and economies of scale. This is why the factories in the export processing zones of Asia and some in Latin America don't look like sweatshops. These large factories often appear to be well-lit and well organized. They are producing large runs of simple garments for export. Employers are looking to squeeze as much production as possible out of workers to justify the investment in setting up large factories — hence the excessive production quotas, extremely long hours of work, restrictions on talking and washroom breaks, and reluctance to hire pregnant workers. Owners want to avoid turnover and retraining. The pace is gruelling, the hours exhausting, the restrictions oppressive, and the conditions unhealthy. This situation is the daily experience of Ana and Yin.

When markets were protected in the North and manufacturers still controlled the production process, many North American and European factories also looked like this, and in the early years of the industrial revolution they used the same kinds of strategies to intensify work. But

the growth of unionization and government regulation mitigated the worst abuses. Today, as unionized factories have closed in the North and government regulation is being dismantled, these abuses are making a comeback, even in the large factories that do remain. The kinds of treatment women like Ana and Yin face are reflected in some large, non-union factories here in Canada. The intensive pace of production and the oppressive and racist regime in the workplace were some of the issues that led workers at the huge 2,000-worker Peerless Suit factory in Montreal to attempt to organize a union in 1996.[14]

Susan's story is another piece of the puzzle. While many Canadian manufacturers simply closed down, converted into importers, or moved into high-skilled, high-tech, and high fashion niche markets, others began to compete for the just-in-time reorder market. This lower-end "fashion" segment of the industry generates short, seasonal runs of less standard garments. Retailers require immediate reorders of seasonal clothing as popular items sell out. Here, the contractors are bidding on price and a quick turnaround time for small production runs. The incentive is to cut every corner possible to lower costs of production — from renting the smallest possible work space in rundown buildings or suburban industrial malls, to subcontracting to homeworkers who cover all of their own overhead costs and provide their own machines. Workers are hired and fired as production dictates. This is the underground economy of homework and sweatshops where Susan works.[15]

Subcontracting and homework aren't restricted to Northern countries. These practices are widespread outside the export processing zones in most Southern countries. In the Patronato area of Santiago, Chile, for example, there are some 740 small workshops with an average of twenty workers each.[16]

In Tijuana, Mexico, Reyna Montero of Factor X – Casa de la Mujer (Woman's House) reports that most apparel production in this border maquiladora centre is now done in small contract workshops, often in people's homes.[17] A soon to be published study by UNIFEM confirms that under NAFTA, a significant proportion of garment production in Mexico is shifting to small sewing workshops and single-person establishments. The report titled "The Impact of NAFTA on Female Employment in Mexico" reveals that by 1993, garment and textile production establishments employing ten or less workers generated 14 percent of employment in the sector compared to 6.6 percent in 1988.[18]

In "Asian Tiger" countries like Korea, garment factories are being replaced by small contracting shops and home-based work, and standards and wages are deteriorating.[19] In countries such as England and Australia, garment homework is also widespread and well documented, under conditions very similar to those in Canada.[20]

The Socio-Political Context of Restructuring

The globalization of the garment industry is taking place within the broader context of globalization and free trade policies, rural-urban migrations, political and human rights

struggles, and a profound division of labour based on gender and race. Ana's story and the economic development strategies of El Salvador illustrate how the process is being played out in Central America.

In 1993, Salvadoran maquiladora exports surpassed coffee in foreign currency generated. Between 1992 and 1997, the number of maquila jobs in El Salvador mushroomed from 12,000 to 59,000.[21] For El Salvador, like the rest of Central America, the phenomenal growth of the maquila sector is one of the few post-civil war economic successes. Most foreign investors in Central America's free trade zones are Korean and Taiwanese apparel manufacturers who produce on contract for major North American retailers and labels.[22] These companies are attracted by easy access to the North American market and by the attractive terms of investment offered by Central American governments. Some US and a few Canadian companies are also setting up factories in the free trade zones.[23]

The glossy brochure of the Salvadoran Foundation for Economic and Social Development (FUSADES)[24] offers maquila investors a ten-year tax holiday, zero custom duties on imported raw materials and capital goods, zero export taxes, low income tax rates for foreign residents, and a "competitively priced, highly trainable, abundant labour force." This "abundant labour force" is made up almost entirely of young women between the ages of sixteen and twenty-four. Many of these women workers have migrated with their families from the countryside where free trade policies are forcing small farmers off the land. They can no longer compete with the price of imported corn, rice, and beans. Some of the workers are the teenage daughters of laid-off workers from failed domestic industries. Because of the excessive hours demanded by the maquila, these young women have no opportunity to complete their education to improve their situation in the future.

When women like Ana report to work each morning at 7:00 a.m., they are searched by armed security guards before being allowed to pass through a metal gate in the wall surrounding the free trade zone. Although this walled zone is technically covered by Salvadoran labour law, in reality, violations of the law are the norm, and they are routinely ignored by the Ministry of Labour. Workers who attempt to organize to improve their conditions face violence from security guards, death threats against leaders and their families, mass firings, possible plant closures, and the prospect of being put on the blacklist and denied future employment in the maquila sector. If a union-organizing drive succeeds, the company can always relocate within the country or to another country. Although there have been many attempts to organize in El Salvador's free trade zones, to date there is not one collective agreement in the over 200 maquila factories.[25]

Not surprisingly, the countries favoured by multinational retailers and super-labels tend to be those that provide not only abundant cheap labour, but also a labour force that is strictly controlled through repression of union organizing and/or prohibition of independent unions. In recent years, as unions became stronger and wage levels rose in Korea, Hong Kong, and Taiwan, production has shifted to countries like Bangladesh, Indonesia, Burma, China, and Vietnam, as well as to Mexico and Central America.[26] Between 1993 and 1997, as a result

of the North American Free Trade Agreement (NAFTA), the number of Mexican maquila plants dedicated to textile operations jumped nearly 70 percent. In 1997, Mexican clothing exports, the vast majority from maquilas, will exceed US$3 billion.[27]

In the last few years, China has become the world's largest garment producer and exporter, as well as the top garment exporter to Canada. In 1996, there were approximately 44,000 garment factories operating in China, with an annual output of 8.5 billion pieces and employing 4 million workers, the majority of them women. A massive migration from the countryside and unemployment generated by changing economic policies in China have created a huge labour pool. The garment industry is expected to grow at a rate of about 10 percent a year between 1995 and 2000.[28] The All-China Federation of Trade Unions is the only legal union in the country, and the formation of independent trade unions has been severely repressed.[29]

The Canadian Piece in the Puzzle

In the past two decades, the Canadian industry, like the garment industry globally, has undergone a major restructuring. There has been a devastating loss of full-time, standard jobs, and a disproportionate loss of unionized jobs. Between 1988 and 1995, more than three out of every ten Canadian garment workers lost their jobs. In the city of Toronto, five out of every ten jobs were lost.[30] There are few large unionized factories left in Canada with permanent employees earning relatively decent wages and benefits. According to Industry Canada, union membership in the clothing, textile, and knitting industries declined from 81,000 in 1980 to 38,800 in 1992, and the unionization rate dropped from almost 44 percent to under 28 percent.[31] In Quebec, Industry Canada estimates that "the rate of unionization has dropped from more than 50% to less than 30% over the past two decades."[32]

Today, the majority of garment firms are small, non-union factories. In the early 1970s, only 22 percent of the industry was made up of factories with less than twenty workers. By the early 1990s, the picture had reversed and over 75 percent of clothing was produced in shops with fewer than twenty workers.[33] In Quebec, for example, UNITE reports that the men's and women's clothing sector is made up of just over 1,000 contractors and manufacturers employing just under 20,000 workers.[34] This means the average number of workers per factory is less than twenty, and for contractors in the women's clothing sector the number drops to around ten per factory.[35] In Ontario, as of 1991, contractors made up over 50 percent of the industry. More than half of those contractors employ four workers or less.[36]

The end product of restructuring in the Canadian industry is a pyramid-shaped system of production that begins with the retailer at the top. The retailer contracts work out to a jobber, who subcontracts to a small factory where the cutting and possibly some sewing is done. The majority of the sewing is subcontracted to smaller workshops, which, in order to meet the production deadline, often subcontract the remaining sewing to homeworkers. At each level in the pyramid, additional contractors receive a cut of the price paid by the retailer, so the

workers are left with a smaller and smaller share. The result is an industry in which labour rights violations are the norm, where piece rates fall well below the minimum wage, where employment is precarious, and where sweatshop conditions are spreading.

As of 1995, the latest year for which statistics are available, Industry Canada reported that the Canadian garment industry was made up of over 2,000 firms employing about 84,000 people. This represented about 6 percent of the overall manufacturing sector in Canada. Over half the factories and garment workers in Canada were in Quebec, followed by Ontario, Manitoba, and British Columbia.[37]

The actual number of workers in the industry, however, is difficult to estimate because of the enormous number of small, unregistered contractors and the number of homeworkers who do not appear in official statistics. One 1992 research study estimated that there were approximately 23,000 homeworkers in Quebec.[38] Alexandra Dagg, of UNITE's Ontario District Council, estimates that there are currently at least 5,000 homeworkers in Toronto.[39] In British Columbia, UNITE estimates that there are approximately 1,500 garment homeworkers in the Vancouver area.[40]

The vast majority of homeworkers and contract shop employees in Canada are immigrant women of colour. In the garment industry as a whole, men tend to be cutters and pressers, while almost all sewers are women. Seventy-six percent of all garment workers are women, 50 percent are immigrants,[41] and almost 30 percent are members of a visible minority.[42] Ninety-four percent of sewing machine operators in Metro Toronto were born outside of Canada.[43] Organizers working with the Ontario District Council of the Union of Needletrades, Industrial and Textile Employees (UNITE) reported that while many contract shop workers were recent immigrants, a surprising number had lived in Canada for many years. Some were previously employees of unionized factories who lost their jobs through lay-offs or plant closures.[44]

Like Susan, the majority of Canadian homeworkers and contract shop employees come from Asian countries where Canadian garments are also produced in export processing zones under sweatshop conditions. A smaller number of workers come from Latin America where an increasing percentage of garments sold in Canada are made. Many came to Canada seeking opportunities or fleeing repression, and find themselves competing against workers in their countries of origin and watching standards fall toward those they thought they had left behind. Avvy Go, a lawyer at the Metro Chinese and South-East Asian Legal Clinic in Toronto, has heard of employers paying according to immigration status. "If you're a landed immigrant, you get, say, $4 an hour; if you're a refugee claimant with employment authorization, you get $3 an hour; if you don't have any status at all, you get $2 an hour."[45] The contracting system is marginalizing and isolating immigrant women in part-time, insecure, poverty-level jobs outside the official economy.

In 1997, a group of sewers from The Homeworkers' Association in Toronto met with the Vice-President of Marketing of Woolworth Canada and a Woolworth lawyer. The meeting

was the result of an intensive public campaign to get the company to address labour standards violations the homeworkers had suffered sewing Woolworth labels for Toronto contractors. In the meeting, each woman told her story, introducing herself with an assumed name to protect her identity. Each had been sewing for a different sub-contractor in Toronto, for a label owned by Woolworth, and each had experienced violations of the *Employment Standards Act*, including minimum wage, overtime, vacation pay, etc. The homeworkers had a clear message for the company: the subcontracting system practically guaranteed that they would face ongoing violations of their basic labour rights. And they wanted the company to take responsibility for those violations.[46]

As the homeworkers so clearly told Woolworth, the structure of the global garment industry today is one that encourages poor and deteriorating wages and working conditions for workers around the world.

Endnotes

[1] An earlier version of this chapter is included as "The Changing Face of a Global Industry," Issue Sheet No. 1 in the *Wear Fair Action Kit*, ed. Bob Jeffcott and Lynda Yanz, (Toronto: Labour Behind the Label Coalition, September 1997).

[2] Susan's story is a composite drawn from interviews with Metro Toronto homeworkers carried out by the International Ladies' Garment Workers Union — Ontario District Council, and The Homeworkers' Association in 1991, 1993, and 1996. See Barbara Cameron and Teresa Mak, "Working Conditions of Chinese-Speaking Homeworkers in the Toronto Garment Industry: Summary of the Results of a Survey Conducted by the ILGWU" (Toronto, 1991); Jan Borowy and Fanny Yuen, "ILGWU Homeworkers Study: An Investigation into Wages and Working Conditions of Chinese-Speaking Homeworkers in Metropolitan Toronto" (Toronto, 1993); Bob Jeffcott, "A Brief History of the Labour Behind the Label Coalition," unpublished paper (February 1998).

This document makes many references to the International Ladies' Garment Workers Union (ILGWU) and the Union of Needletrades, Industrial and Textile Employees (UNITE). The connection between the two may at times be confusing. In 1995, the ILGWU merged with the Amalgamated Clothing and Textile Workers Union (ACTWU) to form UNITE. In Toronto, the ILGWU Ontario District Council did pioneering research and organizing work with homeworkers. Since 1995 that work has continued under the name of the UNITE. The Homeworkers' Association (HWA) is Local 12 of the UNITE Ontario District Council.

[3] The Homeworkers' Association (HWA) was formed in February 1992 after the International Ladies' Garment Workers Union — Ontario District Council conducted a study with homeworkers in Toronto. The Association provides a variety of activities and services for homeworkers including employment rights advocacy and counselling, social events, and workshops on issues such as labour law, racism, and sexual harassment. The HWA is affiliated with the Union of Needletrades, Industrial and Textile Employees (UNITE) as Local 12, under the union's associate member program.

[4] Yin's story is a composite drawn from the following sources: Asia Monitor Resource Center, *At What Price? Workers in China* (Hong Kong: AMRC, 1997) and *Conditions of Workers in the Garment Industry in China* (Hong Kong: AMRC, 1997); *China Labour Bulletin* 41 (March–April 1998); and Charles Kernaghan, *Behind the Label: "Made in China"* (New York: National Labor Committee, 1998).

[5] In this report, we refer to "special economic zones," "free trade zones," "export processing zones," and maquila factories. Free trade zones in Latin America and the Caribbean and export processing zones in Asia refer to geographic areas in which foreign companies are allowed to import duty-free component parts for assembly, and then re-export finished products, again without any duty. In addition, governments usually provide special incentives for companies operating in these zones, including low wages, no unions, minimal taxes, and lax environmental regulations. In China, these areas are referred to as special economic zones. They are located in parts of southern China, where the government has allowed more private sector investments. Conditions are similar to those described above.

Maquila factories were first established along the Mexican border in the mid-1960s. Currently there are maquilas throughout Central America. In Mexico, maquilas are often located in industrial parks rather than in free trade zones. They are also factories for export, where employers receive the same advantages as described above.

[6] Ana's story is a composite drawn from interviews with maquiladora workers in El Salvador carried out by the Interchurch Coalition for Human Rights in Latin America (ICCHRLA) in 1997, and from Bob Jeffcott and Lynda Yanz, "Bridging the GAP: Exposing the Labour Behind the Label," *Our Times* (February 1997).

[7] Industry Canada, *Sector Competitiveness Framework Series, Apparel*, http://strategis.ic.gc.ca/SSG/ap01967e.html (26 September 1997).

[8] The control of retailers is recognized by the industry itself. See, for example, the article by A.J. Nett, "California Makers Squeezed, Come Out Fighting," *Bobbin* (December 1997): 34–38. Also see Susan Bourette, "Sears squeezes men's wear suppliers, *Globe and Mail*, Report on Business, 15 July 1998, reporting on how Sears-Canada dictates cuts to its suppliers.

[9] *Apparel Insights* 1 (January 1996): 6.

[10] International Ladies' Garment Workers Union, *Designing the Future for Garment Workers*, Technology Adjustment Research Programme (Toronto: ILGWU, 1995), 4.

[11] Industry Canada, *Sector Competitiveness Framework Series, Apparel*, above note 7.

[12] Industry Canada, http://strategis.ic.gc.ca/SSG/ap03198e.html (1997).

[13] Michael Piore,"The Economics of the Sweatshop," in *No Sweat: Fashion, Free Trade and the Rights of Garment Workers*, ed. Andrew Ross (New York and London: Verso, 1997), 135–42.

[14] Jonathan Eaton, "Suit Yourself! Peerless Garment Workers Organize," *Our Times* (July/August 1997): 24–29.

[15] See ILGWU, *Designing the Future for Garment Workers*, for an excellent analysis of the Canadian industry's response to global competition from both management and workers' point of view, above note 10 at 25–49.

[16] El Comedor Acogedor de la Mujer Trabajadora Sector Patronato, correspondence to Maquila Solidarity Network, 2 February 1998.

[17] Telephone interview with Reyna Montero, Casa de la Mujer Health Program Coordinator, 21 September 1998.

[18] "The Impact of NAFTA on Female Employment in Mexico," draft (no author noted), 48.

[19] See, for example: Asia Monitor Resource Center, *We in the Zone, Women Workers in Asia's Export Processing Zones* (Hong Kong: AMRC, 1998); and "Focus: Working Women," *Asian Labour Update* (August–October 1995).

[20] See, for example: Claire Mayhew, in association with Michael Quinlan, *The Effects of Outsourcing Upon Occupational Health and Safety: A Comparative Study of Factory-based and Outworkers in the Australian TCF Industry* (New South Wales: National Occupational Health and Safety Commission, January 1998); Textile, Clothing & Footwear Union of Australia, *The Hidden Cost of Fashion: Report on the National Outwork Information Campaign* (Sydney, NSW, Australia, 1995); and National Group on Homeworking (UK), *The National Minimum Wage: Written Evidence to the Low Pay Commission* (October 1997).

[21] Mark Sebastian Anner, *La Maquila y El Monitoreo Independiente en El Salvador* (San Salvador: Grupo Monitoreo Independiente de El Salvador, GMIES, 1998), 27.

[22] See: AVANCSO, *El Significado de la Maquila en Guatemala, Elementos para Su Comprension*, Cuadernos de Investigacion, no. 10 (Guatemala: AVANCSO, 1994); Kurt Peterson, *The Maquiladora Revolution in Guatemala*, Occasional Paper Series 2 (Center for International Human Rights at Yale University, 1992); Centro de Estudios y Analisis Sociolaborales (CEAL), "Research on Maquilas in Central America" (Managua, Nicaragua, undated paper); Mirta Kennedy and Melissa Cardoz, *Mujeres en la Maquila, El caso de la ZIP Choloma* (Centro de Estudios de la Mujer — Honduras, 1995); Sandra Ramos, *Zona Franca. Rostros de Mujer* (Managua, Nicaragua: Movimiento de Mujeres Trabajadoras y Desempleadas, 1996); Hector Figueroa, "In the Name of Fashion, Exploitation in the Garment Industry," *NACLA Report on the Americas* 29, no. 4 (Jan/Feb 1996).

[23] At present there is no public documentation of Canadian owners operating in Central American free trade zones, although we know from conversations with representatives of women's and labour rights advocacy groups in the region that there are examples of Canadian investment and Canadian owners. We have recently learned that a Montreal-based manufacturer, Gildan Activewear, operates a factory in Honduras. This area requires more research.

[24] *Destination El Salvador: The Official Visitor Guide to El Salvador* (1996), 88–93.

[25] See: Gilberto Garcia, "La Maquila en Datos," Documento de Investigacion, Union Internacional de Trabajadores de la Alimentation, Agricolas, Hoteles, Restaurantes, Tabaco y Afines (1996); Centro Universitario de Documentacion e Informacion, *Proceso* (November 1995); *Report of the Legal Aid Office of the Archdiocese of San Salvador Peace and Justice Commission* (May 1995).

[26] Asia Monitor Resource Center, *We in the Zone*; and "Focus: Working Women," above note 19.

[27] Mary Sutter, "Largest Textile Supplier to U.S. Fears Being Dethroned," *Journal of Commerce* (22 July 1997).

[28] Asia Monitor Resource Center, *Conditions of Workers in the Garment Industry in China* (Hong Kong: AMRC, 1997), 1.

[29] *China Labour Bulletin*, above note 4.

[30] ILGWU, *Designing the Future for Garment Workers*, above note 10 at 1.

[31] Statistics Canada, Calura, Labour Unions, Catalogue 71-202.

[32] Industry Canada, *Sector Competitiveness Framework Series, Apparel*, above note 7 at 5 (on file).

[33] International Ladies' Garment Workers Union — Ontario District Council and INTERCEDE, *Meeting the Needs of Vulnerable Workers: Proposals for Improved Employment Legislation and Access to Collective Bargaining for Domestic Workers and Industrial Homeworkers*, Brief submitted to the Ontario Government (1993), 19.

[34] Syndicat du vêtement, textile et autres industries, "Notes pour une rencontre entre les représentants du syndicat du vêtement, textile et autres industries (FTQ) et M. Jean-Marc Boily, sous-ministre du travail et M. Normand Gauthier, sous-ministre adjoint du travail sur l'avenir du régime des décrets dans l'industrie du vêtement" (2 mai 1997), 3.

This figure is based on the number of contractors and manufacturers *registered* with the parity committees and does not represent the total number of garment workers in Quebec. For a description of the Quebec decrees system and parity committees, see chapter 2.

[35] *Ibid.*

[36] ILGWU — Ontario District Council and INTERCEDE, *Meeting the Needs of Vulnerable Workers*, above note 33 at 19.

[37] Industry Canada, *Sector Competitiveness Framework Series, Apparel*, above note 7. Note that the figure of 20,000 workers in men's and women's clothing in Quebec noted above (34) refers to contractors and manufacturers registered with the parity committees. The discrepancy of close to 20,000 workers seems large. Again we have a problem with adequate statistics.

[38] Ordre professionel des conseillers en relations industrielles du Québec, "Le travail au noir dans l'industrie du vêtement" (mai 1997), 9.

[39] Interview with Alexandra Dagg, Manager, Union of Needletrades, Industrial and Textile Employees Union (UNITE) — Ontario District Council, February 1998.

[40] Interview with a staff representative at the UNITE Vancouver office, February 1998.

[41] Industry Canada, *Sector Competitiveness Framework Series, Apparel*, above note 7 at 5 (on file).

[42] Union of Needletrades, Industrial and Textile Employees, *People, Work and Innovation — Final Report* (Don Mills, Ontario: UNITE, 1997), 10.

[43] ILGWU, *Designing the Future for Garment Workers*, above note 10 at iv.

[44] Conversations with organizing staff at UNITE Ontario District Council in Toronto, October 1997.

[45] Bob Jeffcott and Lynda Yanz, "Fighting Sweatshops, Building Solidarity: Exposing the GAP," *Canadian Dimension* 31, no. 5 (September 1997): 28.

[46] Woolworth agreed to carry out an investigation and later claimed that they were no longer placing orders with one contractor. Results of their investigation were never made public. See Bob Jeffcott, "A Brief History of the Labour Behind the Label Coalition," unpublished paper (February 1998), 5.

CHAPTER 2

Challenging Sweatshop Abuses in Canada's Garment Industry

Sweatshop Conditions in Canada

> *Homeworkers have no status in the community. My husband will say, "Oh my wife — she is at home." There is no understanding of the work I do.*
>
> — Toronto homeworker, 1993.[1]

Speaking to a November 1992 conference on homeworking, Holly Du, former Coordinator of the Homeworkers' Association (HWA), noted that when homeworkers were interviewed in 1991, a commonly expressed desire was to overcome their social isolation:

> One question was: "Would you like to meet with another homeworker?" The answer was always "yes." Other things that came up over and over again were that homeworkers wanted to learn more about labour law, wanted to have English as a Second Language (ESL) classes. Everyone mentioned their social isolation.[2]

The social isolation of homeworkers and the invisibility of home-based production have made it next to impossible to obtain precise information on the extent and location of this growing part of the informal sector, or to obtain detailed information on the chain of production between the women who sew our clothes and the retailers who sell them.

The lack of statistical information on contract shop labour is due to the complex and semi-clandestine nature of contract apparel production, the fact that workers are not organized, and the lack of access to information under Canadian law. The fact that the vast majority of apparel homeworkers and contract shop workers are immigrant women of colour, often with limited English or French language skills, may also be a factor in why their experience has not been given sufficient attention.[3]

Yet, despite this lack of hard data, the existence of groups like the HWA in Toronto has made it possible to document and raise public awareness about the problems, issues, and needs of homeworkers and contract shop sewers. There have also been a number of valuable academic studies on the characteristics and role of homework, the ethno-cultural, gender, and class profile of homeworkers, as well as the worker rights abuses associated with home-based production.[4]

In interviews with homeworkers carried out by the International Ladies' Garment Workers Union (ILGWU) Ontario District Council in 1991, 1993, and 1996 in Toronto and in 1993 and 1994 by University of British Columbia graduate student Amanda Araba Ocran in Vancouver, homeworkers identified the following common worker rights abuses:

- workers receiving much less than the minimum wage;
- declining piece rates;
- excessively long hours with no overtime pay;
- employers failing to provide legally required benefits such as statutory holidays and vacation pay or to make employer contributions to Employment Insurance (EI) or the Canada Pension Plan (CPP);
- insecurity of employment with periods of intensive labour and other periods of up to three months with no work and no unemployment benefits.[5]

Research by the ILGWU Ontario District Council also documented the fact that many of the above violations of the *Ontario Employment Standards Act* have been committed by contractors producing for major labels, including Braemar/Dylex, Club Monaco, Eaton's, The Bay, Cotton Ginny, Sears, Alfred Sung, and the Woolworth Northern Group.[6]

In addition to these explicit violations of the legal rights of homeworkers, studies also point to other social and structural barriers faced by homeworkers, including barriers to retraining and entry into the formal job market, racism, isolation, lack of availability of affordable childcare, immigration status, invisibility, fear of a loss of employment if formal complaints are filed, etc. [7]

Homeworkers report suffering the following common health problems: back strain, exposure to fabric dust, eye strain, and stress related to pressure to finish work quickly and to using the home as an industrial work site where work demands compete with demands made by children and other family members.[8] In a recent Australian study comparing the occupational health and safety concerns of factory and homeworkers, 90 percent of the 100 homeworkers interviewed had experienced chronic work-related injuries and illnesses in the previous twelve months, as compared to 42 percent of factory-based workers. Once again, one of the major complaints was back injuries.[9]

> We stay at home to look after the children, because there is no child care in the factory. We need the money, yet at home you can't do both — look after the children and sew.
>
> — Homeworker, 1993

In the 1991 ILGWU Ontario District Council study, of the thirty homeworkers interviewed "twenty-seven of the twenty-eight women with children said that the reason they worked inside the home was the lack of affordable childcare. With very few exceptions the last job outside the home ... was in a garment factory and their reason for leaving that job was pregnancy."[10]

Ocran states: "Homeworkers in this study [Vancouver area] invariably made unfavourable comparisons of their homework employment to their shop-floor experiences even when citing the advantage of combining child care with paid work. They reported isolation and loss of

worker identity or formal employment status as a primary reason for preferring factory work (or any non-home-based work for that matter) to homework."[11] Although little systematic research has been done in Canada on the extent and nature of sweatshop practices in small garment contract shops, interviews with and/or reports from union organizers, government inspectors, and community organizations servicing unorganized workers provide a good description of common worker rights abuses.

These interviews indicate that practices and violations similar to those suffered by homeworkers are also common in small contract sewing workshops. In fact, it may be a mistake to view homeworkers and contract shop workers as separate categories of workers, since it appears that many women move regularly between homework and contract shop employment. Other common abuses noted in contract shop production include treating the initial period of work as "training" without pay, falsifying hours-of-work records to hide unpaid overtime, demanding overtime work on evenings and weekends beyond hours permitted by law, locking the factory doors during forced overtime periods to prevent inspectors from entering the factory, and late payment or failure to pay wages due.[12]

Rights and Protections for Canadian Homeworkers and Contract Shop Workers

In Canada, most forms of homework are legal, and homeworkers are generally entitled to the same rights as all other workers, including minimum wage and all statutory benefits. Both homeworkers and contract shop workers are covered by most provisions of employment standards acts in the four provinces where garment production is concentrated — Quebec, Ontario, British Columbia, and Manitoba — with a few exceptions and differences. One major difference in provincial legislation that affects homeworkers and contract shop employees is the existence of the decree system in Quebec, which provides for a form of broader-based bargaining that we will discuss below.[13]

Other differences include the following: In Ontario, homeworkers are entitled to 10 percent above the minimum wage to compensate for overhead costs. In Quebec, under the men's wear decree, employers are not permitted to hire homeworkers to make men's clothing, and workers are not permitted to work at home on items covered by this decree. In British Columbia, all homeworkers and other workers are entitled, under a recent amendment to the *Employment Standards Act*, to make anonymous complaints concerning employer violations.

An important mechanism used by some provincial governments for keeping track of the number of homeworkers and who is employing them is the permit system. Unfortunately, this system of recording and regulating the use of homework is not presently being effectively implemented.

In Ontario, Manitoba, and British Columbia, employers are legally required to seek a permit to employ homeworkers and to provide information on the homeworkers they employ.

However, as of 1997 in British Columbia — which has an estimated 1,500 homeworkers — not one employer has requested a permit.[14] In Ontario, which has an estimated 5,000 homeworkers, as of 31 March 1998, there were sixty-one permits registered covering 1,220 homeworkers.[15] In Manitoba, there are currently no permits issued to employers for using homeworkers. According to Nancy Anderson of the Manitoba Employment Standards Branch, the branch realized in the early 1990s that the permit system was not being used by employers. Based on a survey they did with some of the employers, they estimated that the number of homeworkers being used in Winnipeg's garment industry was only one percent of the 7,000 total workers in the industry.[16] Based on this survey (which is based solely on employer reports of the number of homeworkers employed), Manitoba is apparently not enforcing its requirement to register the use of homeworkers.

In Quebec, there is no requirement under the *Labour Standards Act* to seek a permit to employ homeworkers. However, under the women's wear decree, homeworkers producing items covered by the decree must be registered. In 1992, of an estimated 25,000 to 30,000 homeworkers in the Montreal region, only 1,000 were registered.[17]

The Homeworkers' Association (HWA) in Toronto, Ontario, was established in 1992 as part of a broad public educational campaign on homeworkers' wages and working conditions launched by the International Ladies' Garment Workers Union (now known as UNITE) and a broad coalition of legal clinics, workers' rights, women's and faith organizations.The HWA is incorporated as Local 12 of UNITE, through its Associate Membership Program. The HWA has received little or no financial support from the international union, and has instead relied on grants from government and religious organizations.

The HWA currently has about 140 members, primarily Chinese garment workers. A four-member Executive Committee is elected for a one-year term and works closely with a full-time Coordinator.

Over the last six years, HWA has provided many services, including a confidential hotline; legal clinic; advocacy, referral and support services, drug and dental benefits; social activities and celebrations; health and safety information and home visits; leadership training, workshops on health, how to repair your sewing machine, labour law, human rights, ergonomics; and sewing and English-as-a-second-language classes.

The constant exposure to the union, its members and staff has challenged many of the homeworkers' negative perceptions of unions. Investigations and documentation of violations of homeworkers' rights in Metro Toronto and resulting campaigns to challenge those abuses may not have been possible without the involvement of the Homeworkers' Association.

Despite the fact that homeworkers and contract shop employees are generally entitled to the same rights and protections as all workers, provincial employment standards legislation is either not being enforced or is not enforceable. In the opinion of Ocran, who interviewed seventy homeworkers and labour rights advocates in the Vancouver area and found that only one homeworker was receiving the minimum wage, current employment standards legislation is fundamentally flawed because it does not adequately acknowledge the home as a workplace, nor how employers use

the home to exploit a particular segment of women workers.[18] Other authors point to the growth of "non-standard" employment in general and the difficulty of applying and enforcing legislation designed for standard employment now enjoyed by a shrinking segment of the workforce, sometimes referred to as "core" workers.[19]

The union representatives, community service providers, and researchers we interviewed as part of this study are virtually unanimous in the belief that significant reforms would be necessary to make enforcement of current legislation possible. Instead, the governments of Ontario and Quebec are introducing changes in legislation that will erode the rights and protections for the most vulnerable sectors of the workforce.

In Ontario, in December 1996, the provincial government made changes in the *Employment Standards Act* to shorten the time limit for workers to make formal complaints from two years to six months. It has also placed a $10,000 limit on awards for violation, even if the value of lost wages is much higher.[20] In Quebec, the government is considering phasing out the decree system for garment workers, which currently provides for a form of broader-based bargaining that extends some of the benefits of collective bargaining to unorganized workers in small workplaces.

Proposed Reforms to Challenge Sweatshop Abuses

There is a great deal of agreement among the researchers, union organizers, and worker rights advocates we interviewed on four key reforms that together might make enforcement of current legislation possible and extend the wages, benefits, and protections enjoyed by organized core workers to the growing sector of unorganized, non-standard workers:

- joint and several liability all along the chain of production;
- provision for anonymous and third-party complaints;
- a central registry for homeworkers;
- broader-based bargaining.

Most of those interviewed also agreed that there needs to be a step-by-step approach to improvements in legislation. This would mean prioritizing the demands that would open the door to the other reforms.[21]

1. Joint and Several Liability

Joint and several liability would make retailers and manufacturers jointly and legally liable, along with the immediate employer, for the employment standards violations of their contractors and subcontractors. Presently, in most Canadian jurisdictions, only the immediate employer is considered legally liable for employment standards violations. As a result, retailers and manufacturers can not be held legally accountable for the labour rights violations of their contractors and subcontractors, and thus there is little incentive for these more

financially secure players in the chain of production to police the subcontracting system. Given the dominant role of retailers in the new system of garment production, their inclusion in any system of joint and several liability is essential.

This reform was seen by most of those interviewed as the crucial first step toward achieving the necessary package of reforms in employment standards legislation to challenge sweatshop abuses. However, given the history of strong resistance by retailers and manufacturers to this proposal, it may also be the hardest to achieve.[22] Two important policy documents, *Meeting the Needs of Vulnerable Workers*[23] and *Collective Reflections on the Changing Workplace,*[24] also identify joint and several liability as the key step in making current employment standards legislation enforceable.

Alexandra Dagg, Manager of the Ontario District Council of the Union of Needletrades, Industrial and Textile Employees (UNITE), notes that a few of the more progressive retailers are moving toward having one or two dedicated contractors with whom they would have a solid relationship, rather than using multiple contractors and a maze of subcontractors, a practice that encourages abuses. She feels that joint and several liability would encourage retailers to adopt a similar approach to gain some control over the contracting system. It would also motivate retailers and manufacturers to actively discourage abuses by contractors and subcontractors. In addition, reducing the number of subcontractors would facilitate the organization of workers.[25]

According to Dagg, joint and several liability is a crucial demand because it addresses the fundamental question of who is the real employer and who are the employees in the restructured garment industry. She noted, however, that the previous Ontario NDP government was lobbied hard by retailers not to implement this proposal.[26]

Judy Fudge, professor of labour law at Osgoode Hall Law School, reinforced the point: "In low wage sectors where fragmentation, competition and contracting are key features, you need joint and several liability in order to gain enforcement of employment standards legislation."[27]

2. Anonymous/Third-Party Complaints

There is unanimous agreement among those we interviewed that a major barrier to enforcement of existing employment standards legislation is that homeworkers and contract shop workers are justifiably afraid to make formal complaints.

According to Shelly Gordon of the Workers Information and Action Centre of Toronto (WIACT), 90 percent of all claims in Ontario are made after people are no longer at the job where the alleged violation took place. This appears to be because workers understand the risk of making complaints while they are still employed by the violator. She notes that in Ontario there is currently no enforceable protection from being fired for people making

complaints. For homeworkers, it is even more dangerous to make a complaint because the contractor can merely withhold future work without needing to formally dismiss the homeworker.[28]

In "Across the Home/Work Divide," Ocran quotes an advocate/translator who assisted in homework disputes as stating: "After you make a grievance ... your family will condemn you for stirring up trouble. Your so-called employer will blacklist you ... and after a couple of years they [the Employment Standards Branch] might decide that somebody should give you eighty dollars, but you never really get the money. So you go through all that for a principle."[29]

Provisions allowing for anonymous complaints have been integrated into British Columbia's *Employment Standards Act*.[30] According to Phillip Legg, Director of Research for the British Columbia Federation of Labour, anonymous complaints provisions have encouraged workers to report violations. He noted that the British Columbia Employment Standards Branch has set up a 1-800 number to receive anonymous complaints regarding workplace problems, and that the average calls per month numbered 60,000 (including repeat calls). Over a one-year period, the total number of calls would equal the figure for half the workforce in British Columbia. However, even with the new legislation, according to Legg, calls generally are made after workers have left their jobs or have been fired.[31]

Following the amendment of the British Columbia *Employment Standards Act* to allow for anonymous complaints, the Victoria Labour Council set up an advocacy program to assist unorganized workers in making complaints. According to Bill Fowler, Secretary-Treasurer of the Labour Council, the majority of workers who make complaints through the program are still at the workplace where the alleged violation(s) took place. He said that the council deals with two or three complaints every day. Complaints about payment for overtime are the most common. Workers normally hear about the service through word of mouth, since there are only two staff, and the council doesn't have time to do proactive outreach. When asked whether workers in small workplaces are protected using the anonymous complaints procedure, Fowler replied that he felt they were. As evidence, he stated that he has filed complaints for workers employed in workplaces with as few as three workers. Fowler believes strongly in the right of workers to make anonymous complaints. "If workers don't have that right," he stated, "they are blacklisted, fired and have very little protection."[32]

Although there are no employment standards provisions for anonymous complaints in other Canadian provinces, in March 1996, worker rights advocates in Ontario created the "Bad Boss Hotline" to receive anonymous complaints. Although the complaints could not be filed with the province's Employment Standards Branch unless the workers were willing to give up their anonymity, they did provide powerful evidence of how rampant worker rights violations are in Ontario. Between August 16 and September 9, the Hotline received approximately 2,000 calls. Many were from homeworkers and contract shop employees in the garment industry.[33]

> I work fourteen hours a day, every day of the week. Last week I earned $1.70 an hour. That was with my husband and two children giving me a lot of help.
>
> — Jenny, a homeworker in Australia, 1995

In Australia, the Textile, Clothing and Footwear Union (TCFUA) carried out a National Outwork [homework] Information Campaign from July to November 1994 with substantial funding from the Department of Industrial Relations. The campaign included an eight-week "national phone-in," in which ten bilingual workers representing eleven languages received anonymous calls from homeworkers and provided information and advice. Over the eight-week period, they received over 3,000 calls. As a result of the phone-in, the TCFUA began processing approximately 100 claims against employers representing tens of thousands of dollars.[34]

Although there is now a safer procedure for workers to make complaints in British Columbia, there are apparently not sufficient Employment Standards Branch (ESB) officers to respond to complaints.[35] A similar problem exists in Ontario and Quebec, where the number of inspectors investigating violations is also inadequate. In Ontario, forty-five ESB staff were laid off between 1994 and 1997.[36] Employment standards officers were to be reduced by one-third between 1996 and 1998.[37] The outcome of these cuts is that cases take longer to investigate, resulting in a huge backlog of cases. There are simply not enough resources for effective enforcement. For example, in Quebec, in 1993, there were only eleven inspectors to monitor compliance with the decree for the women's apparel sector for 14,000 workers in 3,000 plants.[38]

Along with reductions in staffing, there has also been a significant decline in inspections and audits carried out. In Ontario, the number of inspections have declined from 1,304 in 1980–81 to 21 in 1994–95.[39] In 1997, only ten inspections took place in Ontario, with eight out of that ten determining there were violations.[40] At a January 1998 meeting with the Employment Standards Working Group, Richard Clarke, the Director of the Ontario Employment Standards Branch, admitted that many ESB officers did not have proper training for carrying out inspections.[41] The audit of employers' records when individual claims are made is also infrequently performed. According to Fudge, "Despite a sharp increase in the number of audits conducted in 1992–93 as a result of concerted complaints that the [Ontario] Employment Standards Act was not effectively enforced, the use of audits to detect violations is rare."[42]

Even if a worker is able to successfully make a claim and gain a decision in her or his favour, it does not necessarily mean that the worker will get the money owed. According to Mary Gellatly at Toronto's Parkdale Comunity Legal Clinic, in 1995–96, 76 percent of orders issued by the Ontario ESB to employers to pay money owed to workers were ignored. This amounts to $42.1 million. The situation has not improved: in 1996–97, $42.4 million were owed to workers, which accounted for 71 percent of claims.[43] ESB officers consider a case closed when they have issued their order to pay and not when the employer has actually paid the money owed. At the January 1998 meeting of the Employment Standards Working Group,

Clarke also admitted that the best percentage rate the Branch had on collecting on orders was 22 to 25 percent.[44] The Ontario ESB is supposed to prosecute employers that fail to pay; however, in 1997 there were only two prosecutions and none the previous year.[45]

Clearly, if a system of anonymous complaints is to be effective, there must be sufficient resources and staff to investigate complaints in a timely manner and a serious commitment to enforce decisions and prosecute violators who fail to pay fines. As well, routine and proactive inspections and audits could be used as a way for the ESB to send a clear message to employers that violations will not be tolerated.[46]

3. A Central Registry for Homeworkers

In a December 1991 brief to the Ontario Government, the Coalition for Fair Wages and Working Conditions for Homeworkers called for a Homeworkers Central Registry "with records from Homeworker Permits including [the] list of employers, the list of homeworkers and their wages and number of hours worked."[47]

Meeting the Needs of Vulnerable Workers also calls for a central registry that would have the following characteristics:

- Employers hiring homeworkers would be required to apply to the registry for a permit, which would provide the terms and conditions required in the sector or subsector. It would also be the employer's responsibility to register all homeworkers doing work for his/her company. Copies of the permit would be sent to the registered homeworkers.
- Homeworkers would also have the option to register themselves, though they would not be required to do so by law.
- The registry would be operated by the tripartite committee established for the specific sector or subsector.
- The registry would keep track of homeworkers' service with different employers to ensure payment of appropriate prorated benefit contributions, appropriate overtime pay, and benefits that require continuous service.
- The registry would act as an agent on behalf of workers who have disputes with their employers.
- The registry could also provide information on employment rights in different languages, counselling and advice, information on and referrals to social services and advocacy services. It could also operate a drop-in centre.
- In the event that minimum benefit packages were negotiated, the registry in a particular sector would administer that system.
- The registry could be empowered to administer a group plan for employees who wish to take part.
- The registry could also be a place where employers could advertise for workers.

- In addition to the requirement that employers register homeworkers, all entities involved in the chain of production, from retailers and manufacturers through jobbers to contractors, should be required to register.[48]

According to UNITE's Alexandra Dagg, "Our idea for a central registry was not just to have a permit system, but to have a location where homeworkers could come forward with complaints, more of an advocacy organization."[49]

4. Broader-Based Bargaining

Broader-based bargaining is seen by many worker rights advocates as the final and essential piece in the set of four necessary reforms. However, for broader-based bargaining to be effective for homeworkers and employees in small garment contract shops, it is important that the three previously discussed legislated enforcement and control mechanisms are in place.[50]

Broader-based bargaining is a multi-employer system of collective bargaining in which all the workers in a geographic location, occupational sector, subsector, or chain of production would be covered by some or all the provisions of a master collective agreement. The particular feature of broader-based bargaining that makes it attractive for the garment industry is that non-union as well as unionized workers — including homeworkers and employees of small contracting shops — could potentially be covered by important provisions of the master collective agreement. This would take wages out of competition, and make it possible to extend the benefits of collective bargaining to non-standard workers who are virtually impossible to organize in traditional North American union structures.

As labour lawyer Diane MacDonald explains in "Sectoral Certification: A Case Study of British Columbia," the advantage of broader-based bargaining over the traditional Wagner Act model of collective bargaining is that it challenges labour market inequality by making the right to bargain collectively to improve wages, benefits, and working conditions accessible to women, immigrants, workers of colour, and workers with disabilities.[51]

According to Judy Fudge, the move to a system of collective bargaining that encompasses sectoral or broader-based bargaining is a long-term solution to the problem of non-standard work.[52] This approach recognizes that the single-employer bargaining unit structure is no longer applicable to today's organization of work in the garment industry, which is characterized by intense competition, increasing use of contractors and subcontractors, small workplaces, home-based production, generalized employment standards violations, and low wages.[53]

The Quebec Decrees Act

The Quebec *Collective Agreement Decrees Act*, R.S.Q. 1977 (the CADA) appears to be the only Canadian example of a legislated form of broader-based bargaining that is relevant to contract shop workers and homeworkers in the garment industry. The CADA was adopted in

Quebec in 1934 at the height of the Great Depression when high unemployment fuelled wage competition. At that time, the right to bargain collectively was not recognized in Quebec. The decree system was seen as an alternative way to address deteriorating conditions by taking wages out of competition.[54]

According to *Meeting the Needs of Vulnerable Workers*, the decree system "... was introduced to establish certain minimum standards for workers, to eliminate unfair competition amongst employers who were undercutting each other by pushing down wages."[55] The objective of the CADA was to shift the basis of competition from labour costs to other factors such as quality, efficiency, and service. Given the similarities in how work is organized in the restructured garment industry of the 1990s, many see this 1930s reform as a critical piece of legislation to examine today.

Meeting the Needs... goes on to explain that, "The CADA empowers the government of Quebec to proclaim by decree or order-in-council that a collective agreement in a particular 'trade, industry, commerce or occupation' shall bind all employees and employers doing the same kind of work, either in Quebec as a whole or in a particular region of the province."[56] This process in which the government brings unorganized workers in a particular sector under at least some of the terms of a sectoral collective agreement is known as juridical extension. The process can only be initiated by one or more of the parties to the original collective agreement.

The advantages of the decree system that make it relevant to the garment industry of the 1990s are that it extends some of the benefits of collective bargaining to unorganized workers in small workplaces, and in some cases to homeworkers, and that it establishes minimum standards in traditionally low-wage and cost-competitive sectors on key issues such as wages, hours of work, paid vacations, and social security benefits (which can include life, health, accident and disability insurance, and a pension plan).[57]

Four subsectors of Quebec's garment industry are covered by decrees: women's wear, men's wear, shirts, and leather gloves. The extension of some of the terms of collective agreements to unorganized workers is possible because in Quebec, union negotiations in these subsectors take place on a multi-employer basis. The agreements are then administered by parity committees with equal employer and union representation.[58]

How the decrees apply to homeworkers is complicated by the fact that homework doesn't fit easily into the outdated craft divisions under which the decrees were organized. For instance, homeworkers producing women's wear and leather gloves are covered by the decrees, while homework is not permitted under the decrees for men's wear and shirts. In other words, a homeworker is permitted to sew women's apparel, and is entitled to the wages and benefits provided under the women's wear decree, but the same homeworker is not permitted to sew men's wear. While the parity committee for the women's wear decree establishes base

salaries for homeworkers, it also prohibits the occasional use of regular employees as homeworkers. Homeworkers not covered by the decrees are covered by the *Labour Standards Act*, as they are under employment standards acts in other provinces.[59]

Another major advantage of the CADA is that it provides for joint and several liability covering all employers in a subcontracting chain for the payment of the wage established by the decree. This provision offers a legal mechanism to enforce payment of the negotiated wage to homeworkers and contract shop workers covered by the women's wear decree. When a contractor fails to pay its employees, the Joint Commission (or parity committees) first attempts to collect the money from the contractor; then, if that isn't possible, it tries to collect from the manufacturer. The manufacturer is liable for that payment even if it has already paid the contractor for the work. Two weaknesses of this provision are that liability is limited to wages and doesn't cover other violations involving payment owed to a homeworker or contract shop employee, and that liability isn't extended to retailers.[60]

Other notable features of the CADA include:

- successor rights provisions that make former and new employers jointly and severally liable for debts incurred and owing to a parity committee or to employees; and
- enforcement and monitoring clauses, one of which requires employers to keep a record of homeworkers — name, address, the date of delivery and description of the work, quantity of garments and piece rate paid — which they must submit to the parity committee.[61]

Also of interest is how complaints and inspections are dealt with. Parity committees are charged with monitoring the terms of the decrees. They hire inspectors and receive complaints from workers (and file suit in civil court for individuals or groups of workers, paying all costs). Inspectors hired by the parity committees have significant investigative and enforcement powers. For example, no restrictions are placed on the time or place at which an investigation can be carried out and no notice is required before carrying out an inspection.[62]

However, despite the authority given inspectors, the fact that there are very few inspectors has limited their effectiveness. In 1993 in the women's clothing subsector, there were only eleven inspectors to monitor 14,000 workers in 3,000 plants.[63] As well, Geoffrey Brennan notes that the effectiveness of enforcement depends on the inspectors and on the way they use the power given to them. Since employers sit on the parity committee, which hires inspectors and approves decisions, there can be unevenness in enforcement.[64]

The power of inspectors hired by a parity committee to examine payroll records of employers covered by a decree has been raised before the Supreme Court of Canada. The issue was whether this provision of the decrees act violated section 8 of the *Canadian Charter of Rights*

and Freedoms prohibiting "unreasonable search or seizure." In their ruling, Justices La Forest and L'Heureux-Dubé noted that the *Charter* "does not prohibit inspections without authorization [but] simply imposes a requirement of 'reasonableness'."[65]

Geoffrey Brennan, in *The Big Picture: Broader-Based Bargaining and the Decree System*, argues that the decree system has benefited a sector of the workforce that would not otherwise be covered by conventional collective agreements. He notes that the average size of establishment regulated by decree in 1988–89 was just under ten employees.[66]

However, although the decree system has been relatively successful in establishing a wage floor for unorganized contract shop workers, it appears to have been less successful in protecting the rights of the majority of homeworkers. This is demonstrated by the fact that most homework in Quebec, as in the rest of Canada, is not declared, and is therefore part of the underground economy. In 1993, as noted above, out of an estimated 25,000 to 30,000 homeworkers in the Montreal region, only 1,000 were registered.[67]

Even some contract shop apparel production seems to be shifting into the underground economy, outside the norms established under the decrees. In "Le travail au noir dans l'industrie du vêtement," the Professional Association of Industrial Relations Counsellors of Quebec notes that between 1989 and 1992, the number of workers covered by the women's wear decree declined by 30 percent.[68] The authors go on to say that in 1992, 52 percent of women's wear firms were extremely small contractors employing between one and five employees. They also argue that enforcement of decrees for homeworkers is extremely difficult since it requires a great deal of "surveillance." As well, since the decree system is organized by sector (based on archaic craft divisions that are often no longer relevant), it can not deal with the fact that many companies produce apparel covered by more than one decree or no decree.[69]

Unlike groups consulted in Ontario, the Association approaches the sweatshop abuse violations as part of the broader problem of the growth of the underground economy and taxation revenues lost through undeclared income. They argue that the answer to abuses in the garment industry is to attempt to eliminate underground work in the industry altogether through close cooperation among the parity committees, the employment standards commission, and the Quebec Ministry of Revenue, along with information campaigns by unions, employers, and professional associations.[70] In contrast, groups in Ontario have focused on defending and strengthening the rights of workers who are trapped in the underground economy.

At the time of this writing, the Quebec decrees system is once again under review. It appears that the Quebec government is under pressure from sectors of the business community to scrap or weaken the decrees in order to offer management more "flexibility" to better compete in the global economy. In a May 1998 report to the Quebec government, the Groupe conseil sur l'allègement réglementaire recommends that the government declare its firm intention to abolish the decree system in the apparel industry, modify the *Loi sur les normes*

du trovail (employment standards) to cover the workers currently covered by the apparel decrees, and allow for a transition period during which some superior standards currently enjoyed by workers under the decrees would be maintained. The report also opposes any attempt by the government to amalgamate and simplify the four decrees. New legislation is expected by January 1999.[71] We can anticipate resistance from the Quebec labour movement to these proposed changes.[72]

However, in the words of Bergeron and Veilleux: "Despite its limitations, the collective agreement decree system helps to establish good working conditions for employees of small and medium-sized firms, and helps to prevent undue competition. These strengths will become increasingly clear in the future. Accordingly, other Canadian jurisdictions would do well to look closely at the decree system."[73]

Ontario Proposals

Advocates for homeworkers in Ontario whom we interviewed believe that lessons can be learned from the Quebec decree system experience. However, they advocate forms of broader-based bargaining more relevant to the current structure of the garment industry, rather than a system based on antiquated craft divisions which presumes that the core of the workforce is already organized and that employers would cooperate voluntarily with unions in order to tackle unfair competition.[74]

Meeting the Needs of Vulnerable Workers suggests that broader-based bargaining could take place in two different ways: it could allow the "extension of [union] representation of workers throughout a single chain of production" from the retailer or jobber down to the homeworker, based on joint and several liability; and second, it could allow the extension of representation of workers across any subsector, such as women's apparel, when "a preponderance (45 percent)" of the workers in that subsector are organized.[75]

In the first model, "chain of production" refers to the different steps in the production of particular brands of apparel from the retailer who places the order to the jobber or manufacturer to the sewing contractors and subcontractors to the homeworkers. Under this model, once the majority of workers involved in the manufacture of products in a chain of production were organized, union representation would be extended to all the workers in the chain.

Referring to the second model, in which representation would be extended to all workers in a subsector of the industry, the report notes that "as sectoral definitions now stand in the [Ontario] *Industrial Standards Act* (ISA), they are very outdated and make little practical sense."[76]

Ontario labour rights advocates who were interviewed favoured a system of broader-based bargaining organized around chains of production. This preference is probably because under

current conditions, organizing sufficient workers in a whole sector or subsector to gain the right to broader-based bargaining would be extremely difficult, and because current sectoral divisions under the Ontario *Industrial Standards Act* are not applicable to the restructured garment industry. It was strongly suggested that for broader-based bargaining to be effective for homeworkers, joint and several liability and a homeworkers central registry must already be in place. UNITE's Alexandra Dagg stated that while broader-based bargaining would be complicated since contractors and homeworkers often produce for more than one retailer, "it's the only way to organize in the garment sector today."[77]

One option for how homeworkers might be organized under a system of broader-based bargaining based on chains of production is suggested in *Meeting the Needs of Vulnerable Workers*. The report suggests that once a chain of production was organized, homeworkers would be employed through a union hiring hall, all unionized homeworkers would be registered at the central registry, and all apparel made by unionized homeworkers would be required to bear the union label.[78]

It is important to acknowledge that broader-based bargaining is not supported by all elements in the labour movement. Labour law analyst Judy Fudge stated that the main reason for debate in the union movement about broader-based bargaining comes down to the issue of union democracy. The main opponents of broader-based bargaining are unions that are reluctant to support a system that gives exclusive bargaining rights to one union for one sector. The dominant view in the North American unions is that there should be competition between unions to ensure political accountability and democracy.

However, Fudge believes that most of the problems concerning union democracy that are sometimes associated with broader-based bargaining are problems that already exist in the Canadian collective bargaining system, since that system is based on majority representation, exclusive bargaining rights, and union security. Fudge notes that at present the support of a majority of workers is required to gain union certification at any workplace and that once gained the union has guaranteed certification until the "open period" when the collective agreement is up for renegotiation. Broader-based bargaining would operate in the same way, only on a larger scale.[79]

Some unions oppose broader-based bargaining because they believe it leads to weak unions, unions that don't organize, and unions that don't empower their members. "I agree with them that you have to go out and organize," says Dagg, "but in the garment sector as it's currently structured, it is very difficult to organize. It would require a huge effort and enormous resources."[80]

Jan Borowy, former research director at the Ontario District Council of the International Ladies' Garment Workers Union (ILGWU, now known as UNITE), believes that even with broader-based bargaining, "we still need to look at new strategies for organizing in the

garment sector." She suggests that more discussion is needed on organizing strategies that would allow unions to reach a significant foothold in the industry or in a particular chain of production to make broader-based bargaining viable.[81]

Sectoral Certification: A British Columbia Proposal

Although never implemented, a form of broader-based bargaining called "sectoral certification" or "multiple employer certification" was proposed to British Columbia's NDP government in 1992. The proposal was made by two members (John Baigent and Vince Ready) of an advisory committee on proposed changes to provincial labour legislation.

Unlike the Quebec system of juridical extension, which extends some of the provisions of a master collective agreement to all workers covered by an appropriate decree, the Baigent/Ready proposal would allow employees in a small workplace to democratically determine whether they wish to become union members and in the process have the opportunity to opt into an existing sectoral master collective agreement. It would therefore encourage unions to organize workers in small workplaces, and offer tangible benefits to workers in small workplaces who choose to organize.

Under the proposal, a union could apply to the Labour Relations Board for a "variance" of an existing bargaining certification to include employees from a new workplace or workplaces in the same sector, if there was sufficient support for unionization among the new workers. If the Board determined to vary the certification to include the new employees, they would come under the terms of the existing collective agreement.

In "Sectoral Certification: A Case Study of British Columbia," Diane MacDonald points to a number of advantages sectoral certification could offer not only regular employees in small workplaces but also non-standard workers, such as casual and temporary workers.[82]

The advantages for workers in small workplaces, particularly in the retail sector, are fairly obvious. Under sectoral certification, workers employed by a fast food chain or by its franchises would not have to face the daunting task of negotiating a first collective agreement in each of the company's outlets in a particular province. Once a first collective agreement was achieved in the appropriate sector, other workers employed in small workplaces in the same sector could opt into the terms of the master collective agreement immediately upon gaining approval by the Labour Relations Board to vary an existing bargaining certification to include them. Workers in small workplaces would therefore have a very concrete incentive to organize.

The legislation would not require that workers in a particular sector be members of the same union, though unions representing those workers would be compelled to participate in joint

negotiations for a sectoral collective agreement. If organizing was successful, the existence of a sectoral master agreement would take wage costs out of competition and therefore discourage sweatshop abuses.

Although at the time of certification of a particular workplace, the immediate employer would not have input into the terms of the sectoral master agreement, he/she could participate in multi-employer contract negotiations when the sectoral agreement was up for renegotiation. As well, employers and employees covered by the sectoral certification would be able to negotiate local agreements concerning issues particular to their workplaces, while sectoral negotiations would set common standards on key questions such as wages and hours of work. Unlike the traditional Wagner Act system of workplace certification in which multi-employer bargaining is permitted but voluntary, under the Baigent/Ready proposal, employers would not have the option to enter into or withdraw from sectoral contract negotiations.

Although MacDonald doesn't specifically refer to homeworkers and contract shop workers in the garment sector, she does suggest changes to the Baigent/Ready proposal that would make it applicable to non-standard or "precariously employed" workers. She argues that "there could be a mechanism which ensures that once a majority of employees in a geographic and occupational sector have chosen to be represented by a union, the collective agreement could be extended to all employees within the defined sector."[83] In effect, MacDonald is proposing a combination of the best features of sectoral certification and the Quebec system of juridical extension. She also notes that this provision was included in the 1973 version of "multi-employer certification," but was opposed by BC business groups.[84]

This revised version of the Baigent/Ready proposal would allow for union representation for homeworkers and contract shop employees in very small workplaces where the lack of anonymity and employer intimidation are strong disincentives to organizing. MacDonald also refers to other advantages this version of sectoral certification would offer non-standard workers:

> If precariously employed individuals organized under a sectoral model they could remain in the same bargaining unit even if they changed employers. This would ensure that their wages and working conditions were consistent; it might also enable precariously employed individuals to retain benefits and seniority as they move from workplace to workplace ...[85]

Although sectoral certification may not facilitate broader-based bargaining organized along particular sub-contracting chains of production, it does offer an innovative approach that connects workplace organizing to geographic and sectoral broader-based bargaining. With MacDonald's suggested amendment, the Baigent/Ready proposal could eventually extend the benefits of organizing and sectoral bargaining to homeworkers and contract shop employees.

According to MacDonald, sectoral certification was not adopted in British Columbia because of opposition from the business sector and because unions either didn't fully understand the proposal, were not sufficiently committed to it, or didn't give it enough priority. She states:

Unless academics, policy-makers, groups representing women, workers with disabilities, immigrants and workers of colour and, most importantly, the labour movement make a form of sectoral certification a priority, race- and gender-based labour markets will likely remain a dominant feature of North American labour relations systems.[86]

The Australian Experience

In 1987, the Textile, Clothing and Footwear Union of Australia (TCFUA) won the inclusion of three new clauses in the Clothing Trades Award, thereby extending to homeworkers [called outworkers in Australia] the minimum wage and other benefits provided for under the Award.[87] In Australia, industrial award entitlements are the minimum wage, benefits, and other conditions that all workers in a particular sector are entitled to by law. There are four awards in the apparel sector: clothing, textile, footwear, and felt hatting.[88]

According to Annie Delaney, the Outworker Program Coordinator for the TCFUA, the awards are determined by the industrial relations commission, which has powers under federal labour law to determine national minimum wage increases, other provisions of the awards, variations to award clauses, and other matters. Decisions concerning proposals for new clauses in or "variations" to the awards are made on the basis of cases presented to the commission by the union representing workers in the particular sector. Employer organizations either consent to the proposed changes or present a case as to why they should be opposed. The commission determines the outcome.

According to Delaney, the awards are "varied" regularly. For example, one of the clauses in the Clothing Trades Award concerning homeworkers was amended in 1996. An award covers all workers in an appropriate sector, including unorganized workers, though higher wages and benefits can be negotiated at the enterprise level. As of 1 June 1998, the average minimum wage for all workers in the apparel industry was Australian $10.85 an hour. According to Delaney, "we do not make a distinction on the basis of where people work, whether they are factory workers or homeworkers."[89]

Although there are some similarities between the awards system and Quebec's decree system, the Australian model of industrial relations gives some unique rights and powers to unions, both in terms of access to information and in enforcement of minimum labour standards.

Before changes were made to the *Workplace Relations Act* in 1996, the TCFUA had the legal right to inspect, without notice, the premises and records of companies who were "respondents to the awards." This essentially gave the union the right to monitor employer compliance with minimum labour standards in the unorganized sector of the garment industry. In 1996, this right was limited to companies employing at least one member of the TCFUA. As well, the union was required to give 24 hours notice before visiting a workplace.[90]

According to Delaney, the awards are reinforced by the *Industrial Relations Act.* The Act gives the union the power to prosecute companies for violations of the Award. The Award requires that the companies have to register with an industry board, keep records of all contract work, including the sewing time, the amount of work, the total number of hours required to complete the work, the delivery date, etc. The company is also required to provide lists to the union four times a year of the contractors and/or homeworkers they are using.[91] Delaney explains: "If the union discovers that a company has not registered, not kept proper records or not provided a list of contractors, we initiate prosecution procedures against the company under the federal act."[92]

According to Delaney, the federal government passed laws in 1997 which attempt to "strip down" the number of matters covered by the awards. Later in 1998, the Industrial Relations Commission will determine if the current clauses concerning homeworkers will be cut back or remain as they are. If the Commission determines that the provisions in the Award should be cut back, and if reporting requirements are removed from the Award, this would eliminate the union's right to prosecute companies for violations, such as not registering, keeping records, or providing lists. Delaney charges that although "the government departments have the power to police awards and prosecute companies who are not complying, they no longer put any resources into compliance."[93]

Britain's National Group on Homeworking (NGH) was established in 1984 and is made up of local homeworking projects in eleven cities. The NGH is currently negotiating with the national task force on homeworking and pressuring for a guaranteed minimum wage, enforceable for the country's estimated two million homeworkers.
In 1997, NGH launched a national campaign called "A Charter for Homework, Real Work, Equal Work," which includes:

- Equal employment rights for homeworkers to clarify the worker status of homeworkers in all appropriate legislation and with all government bodies.
- Basic floor of employment rights for all workers who are not self-employed, which will link homeworkers with other precarious workers and include just cause protection, maternity, sick, pension, health and safety protection, and the right to trade union representation.
- Employer responsibility where the onus is on the employer, not the homeworker, to prove the self-employment relationship. A second component focuses on joint and several liability.
- Establishment of an Enforcement Agency.
- International Convention (1996) on Homeworking be Adopted by UK government.

Despite the rights and powers given to unions under Australian labour legislation, homework remains largely unorganized and unregulated in that country, as is the case in Canada. However, the phenomenon of homework appears to be much more prevalent in Australia's garment industry, unless the number of Canadian homeworkers is grossly underestimated. The TCFUA estimates that there are now 329,000 homeworkers in the textile, clothing, and footwear industries, or fourteen homeworkers for every factory garment worker. Of the 3,000

homeworkers interviewed during their 1994 phone-in campaign, fewer than ten were receiving the minimum pay and benefits to which they were entitled. Although required to by law, most contractors do not keep records of the homeworkers they are using or the compensation they are receiving.[94] According to the TCFUA, homeworkers are usually paid between Australian $2.50 and $5.00 per hour.[95]

In response to the growing problem of exploitation of homeworkers, and to government attempts to weaken labour legislation, the TCFUA adopted a new strategy to pressure retailers and manufacturers to take responsibility for abuses of home-based workers producing their apparel. In the wake of Senate hearings on homework, in 1996, the TCFUA began negotiations with retailers and manufacturers to adopt the "Homeworkers Code of Practice." Although the code is voluntary, its intent is to commit retailers, who are not party to the awards, and manufacturers to cooperate with the enforcement of the awards and other labour legislation, and to provide the union with sufficient information to monitor compliance. As the Fair Wear campaign kit explains, the Homeworkers Code of Practice "is a regulatory process designed to make the contracting chain transparent, and to enable home-based outworkers to receive an agreed wage rate, including loading for holidays (pay in lieu of holidays)."[96]

Rather than seeing the code as a substitute for legislation that is not currently being enforced, the TCFUA is using the code to commit retailers and manufacturers to ensuring that their contractors abide by that legislation and cooperate with the union in its legally established monitoring role. In that sense, employer endorsation of the code might actually be useful in discouraging the federal government from further dismantling existing labour legislation.

Since 1996, the TCFUA and its community, church, and labour partners in the Fair Wear Coalition have succeeded in pressuring and persuading the Australian Retailers Association and a significant number of major retailers to sign on to the code of conduct. The TCFUA and the Fair Wear Coalition are now putting pressure on apparel manufacturers. As of March 1998, thirty-seven major retailers and fifty-three manufacturers and fashion houses have signed the code.[97]

Key features of the code include the following:

- Homeworkers shall not be paid less than they are entitled to under the Award, and shall receive all benefits and entitlements provided by the relevant Award and legislation. These include hours of work and minimum and maximum workload provisions, workers compensation protection, superannuation contributions, written notice upon termination.
- Retailers will require their suppliers to comply with all laws and regulations relevant to the engagement of homeworkers, including payment of the Award pay rate.
- Retailers may display a logo or sign to indicate they are not exploiting homeworkers; manufacturers may affix a label to their products indicating the same.

- Retailers will provide quarterly and in writing to the TCFUA the names and addresses of all their suppliers.
- The union shall have the responsibility of enforcing compliance with the code. When a violation is discovered, the union will inform the manufacturer and retailer.
- The retailer will investigate the case with its supplier giving fair opportunity for the supplier to demonstrate it is in compliance with the code. If the supplier is not in compliance, the retailer will cancel the purchase contract and/or terminate the relationship.
- A Code of Practice Committee, with equal representation from the union and employers, will accredit manufacturers and have the power to withdraw accreditation. It will also confirm a retailer's entitlement to accreditation based on whether it is only using accredited manufacturers.
- Upon request, the manufacturer shall provide the union the name and address of any homeworker involved in the manufacture of their products.
- Where the union gives written notice to the manufacturer that a contractor is in violation of the agreement, the manufacturer shall within fourteen days investigate the allegation and report its findings to the union and the Code of Practice Committee. If the contractor fails to pay the homeworkers or to compensate the homeworker for an underpayment, the manufacturer shall pay the homeworker from any monies that remain outstanding to the contractor.[98]

Although the Australian Homeworkers Code of Practice is not yet in operation, and it is therefore not possible to judge its success in challenging the exploitation of homeworkers, it does offer an innovative strategy for linking codes of conduct and labelling schemes with enforcement of labour legislation. The requirements for corporate disclosure on manufacturers, contractors, and homeworkers should be particularly interesting to groups in Canada and the United States campaigning for more citizen and consumer access to information.

While some unions and advocates for homeworkers in Canada may feel that the code has the effect of privatizing enforcement of labour legislation, the involvement of the TCFUA in monitoring and enforcement is already well established in Australian labour law and is seen by the union as a right they would not want to relinquish. According to Delaney, if the code eventually fails, the union will refocus its energy on legislation.[99]

Nor is negotiation of a voluntary code preventing the union from using legal channels to prosecute violators of Award requirements. In June 1998, the TCFUA launched legal action against thirteen companies, including Nike and Reebok, who the union claims are in breach of the Clothing Trades Award. Some homeworkers producing for some of the thirteen companies were reportedly receiving as little as $2.00 an hour. The companies could be fined up to $10,000 for each offence. The aim, says Annie Delaney, is to ensure the Award is complied with.[100]

Clearly, the Code of Practice comes out of a particular experience of labour relations and legislative context and therefore may not be entirely applicable to the Canadian reality. However, there are a number of features of the code that could be relevant to the discussion and debates now under way in Canada on the merits of codes of conduct and their relationship to legislative approaches.

ENDNOTES

[1] International Ladies' Garment Workers Union, Notes from educational, Port Elgin, 1993. All insert quotes in this chapter are from the same source, except for the quote from Jenny, the Australian homeworker, which is reprinted from Australia's Fair Wear Campaign web-site: http:vic.uca.org.au/fairwear. Boxed descriptions of the Homeworkers' Association (HWA) on pages 22–23 and the National Group on Homeworking (NGH) on page 36 are based on interviews with staff.

[2] International Ladies' Garment Workers Union (ILGWU), *From the Double Day to the Endless Day* (Toronto: ILGWU, 1992), 20.

[3] One of our research team, Deena Ladd, former Coordinator of Organizing with the Union of Needletrades, Industrial and Textile Employees (UNITE) — Ontario District Council, has documented information on conditions of contract shop workers in Toronto in interviews (on file).

[4] See the "Canadian Garment Industry" section of the bibliography at the end of this report.

[5] Barbara Cameron and Teresa Mak, "Working Conditions of Chinese-Speaking Homeworkers in the Toronto Garment Industry: Summary of the Results of a Survey Conducted by the ILGWU" (1991); Jan Borowy and Fanny Yuen, "ILGWU Homeworkers Study: An Investigation into Wages and Working Conditions of Chinese-Speaking Homeworkers in Metropolitan Toronto" (1993); Amanda Araba Ocran, "Across the Home/Work Divide: Homework in Garment Manufacture and the Failure of Employment Regulation," in *Challenging the Public/Private Divide: Feminism, Law and Public Policy*, ed. Susan B. Boyd (Toronto: University of Toronto Press, 1997); Bob Jeffcott, "A Brief History of the Labour Behind the Label Coalition," unpublished paper (February 1998).

[6] Borowy and Yuen, "ILGWU Homeworkers Study," above note 5 at 9.

[7] Ocran, "Across the Home/Work Divide"; Cameron and Mak, "Working Conditions of Chinese-Speaking Homeworkers"; above note 5. ILGWU, *From the Double Day to the Endless Day*, above note 2.

[8] Borowy and Yuen, "ILGWU Homeworkers Study," above note 5 at 9.

[9] Claire Mayhew, in association with Michael Quinlan, *The Effects of Outsourcing Upon Occupational Health and Safety: A Comparative Study of Factory-based and Outworkers in the Australian TCF Industry* (New South Wales: National Occupational Health and Safety Commission, January 1998), 87.

[10] Cameron and Mak, "Working Conditions of Chinese-Speaking Homeworkers," above note 5.

[11] Ocran, "Across the Home/Work Divide," above note 5 at 155.

[12] Interview with Deena Ladd, November 1997. Anne Bains, "Thirty-eight Cents a Shirt," *Toronto Life*, February 1998; Employment Standards Work Group, *Bad Boss Stories: Workers Whose Bosses Break the Law* (Toronto: Employment Standards Work Group, 1996).

[13] See description of the decree system in "The Quebec Decrees Act," in this chapter.

[14] Stewart Bell, "B.C. cracks down on home sweatshops: cheap clothes produced with long hours, little pay," *The Vancouver Sun*, 3 May 1997, A1.

[15] Interview with Alexandra Dagg, Manager, Union of Needletrades, Industrial and Textile Employees (UNITE) — Ontario District Council, February 1998.

[16] Interview with Nancy Anderson, Acting Manager of Client Services, Employment Standards Branch, Government of Manitoba, 6 April 1998.

[17] International Ladies' Garment Workers Union — Ontario District Council and INTERCEDE, *Meeting the Needs of Vulnerable Workers: Proposals for Improved Employment Legislation and Access to Collective Bargaining for Domestic Workers and Industrial Homeworkers*, Brief submitted to the Ontario Government (1993), 46. This estimate of the number of homeworkers is based on an interview with Gerry Roy, Canadian Director, International Ladies' Garment Workers Union, in October 1992. Ordre professionnel des conseillers en relations industrielles du Québec, "Le travail au noir dans l'industrie du vêtement" (Quebec, May 1997) estimated the number of homeworkers slightly lower, as 23,000 in 1992, based on statistics from the parity committee for women's apparel.

[18] Ocran, "Across the Home/Work Divide," above note 5 at 152–58.

[19] Judy Fudge, *Labour Law's Little Sister: The Employment Standards Act and the Feminization of Labour* (Ottawa: Canadian Centre for Policy Alternatives, 1991), 11–15; Alexandra Dagg, "Worker Representation and Protection in the 'New Economy'," in *Collective Reflections on the Changing Workplace: Report of the Advisory Committee on the Changing Workplace* (Ottawa: Government of Canada, 1997), 78–84.

In its 1990 report, *Good Jobs, Bad Jobs*, the Economic Council of Canada points to women as the majority of those employed in non-standard work forms — part-time employment, short-term work, own-account self-employment, and temporary-help agency work (Ottawa: Ministry of Supply and Services, 1990).

[20] Ontario, Ministry of Labour, "Important Changes to the Employment Standards Act Become Law on December 1, 1996," News Release, 27 November 1996.

[21] ILGWU — Ontario District Council and INTERCEDE, *Meeting the Needs of Vulnerable Workers*, above note 17; interviews with Jan Borowy, former Research Director, ILGWU — Ontario District Council; Shelly Gordon, Co-ordinator, Workers' Information and Action Centre, Toronto; Judy Fudge, Labour Law Professor, Osgoode Hall Law School; and Alexandra Dagg, Manager, UNITE — Ontario District Council, all carried out in February 1998.

[22] Interviews with Jan Borowy, former Research Director, ILGWU — Ontario District Council; Shelly Gordon, Coordinator, Workers' Information and Action Centre, Toronto; Judy Fudge, Labour Law Professor, Osgoode Hall Law School, and Alexandra Dagg, Manager, UNITE — Ontario District Council, all carried out in February 1998.

[23] ILGWU — Ontario District Council and INTERCEDE, *Meeting the Needs of Vulnerable Workers*, above note 17 at 69.

[24] Dagg, "Worker Representation," above note 19 at 106–7.

[25] Interview with Alexandra Dagg, above note 15.

[26] *Ibid.*

[27] Interview with Judy Fudge, Labour Law Professor, Osgoode Hall Law School, Toronto, March 1998.

[28] Interview with Shelly Gordon, Director, Workers Information and Action Centre, Toronto, February 1998.

[29] Ocran, "Across the Home/Work Divide," above note 5 at 159.

[30] Paul Jay, "Third Party Complaints Used by B.C. Union Organizers," *Workplace News*, February 1997.

[31] Interview with Phillip Legg, Director of Research, British Columbia Federation of Labour, April 1998.

[32] Bill Fowler, Secretary-Treasurer, Victoria Labour Council, fax to Deena Ladd, 20 April 1998.

[33] Theresa Boyle, "'Bad bosses' thrive amid lax standards workers say," *The Toronto Star*, 10 September 1996.

[34] Textile, Clothing and Footwear Union of Australia, *The Hidden Cost of Fashion: Report on the National Outwork Information Campaign* (Sydney, NSW, Australia: TCFUA, 1995), 24. For a description of the Australian Outwork Information Campaign, see "The Australian Experience," in this chapter.

[35] Interview with Phillip Legg, above note 31.

[36] Employment Standards Work Group, *The Desirable Dozen: 12 Ways to Update the Employment Standards Act for the 21st Century Workplace* (Toronto, 1997).

[37] Judy Fudge, "The Real Story: An Analysis of the Impact of Bill 49, the Employment Standards Improvement Act, upon Unorganized Workers," unpublished paper (July 1996), 8.

[38] ILGWU — Ontario District Council and INTERCEDE, *Meeting the Needs of Vulnerable Workers*, above note 17 at 44.

[39] Fudge, "The Real Story," above note 37 at 21.

[40] Interview with Mary Gellatly, Community Legal Worker, Parkdale Community Legal Clinic, Toronto, April 1998.

[41] Minutes from meeting of the Employment Standards Working Group, 23 January 1998.

[42] Fudge, "The Real Story," above note 37 at 21.

[43] Interview with Mary Gellatly, above note 40.

[44] Minutes from meeting of the Employment Standards Working Group, 23 January 1998.

[45] *Ibid.*

[46] Interview with Mary Gellatly, above note 40.

[47] Coalition for Fair Wages and Working Conditions for Homeworkers, *Fair Wages and Working Conditions for Homeworkers*, Brief to the Government of Ontario (1991), 11.

[48] ILGWU — Ontario District Council and INTERCEDE, *Meeting the Needs of Vulnerable Workers*, above note 17 at 44.

[49] Interview with Alexandra Dagg, above note 15.

[50] Interviews with Jan Borowy, Shelly Gordon, Judy Fudge, and Alexandra Dagg, above note 22.

[51] Diane MacDonald, "Sectoral Certification: A Case Study of British Columbia," *Canadian Labour and Employment Law Journal* 5 (1998): 243–86, 244.

[52] Judy Fudge, "The Gendered Dimension of Labour Law: Why Women Need Inclusive Unionism and Broader-Based Bargaining" (paper prepared for conference on Broadening the Bargaining Structures in the New Social Order, Centre for Research on Work and Society, York University, 7–8 May 1992); and interview with Judy Fudge, Labour Law Professor, March 1998.

[53] Interview with Judy Fudge, Labour Law Professor, Osgoode Hall Law School, Toronto, March 1998.

[54] Michel Grant and Ruth Rose,"Bringing Homework in the Garment Industry under Control in Quebec." *Relations industrielles/Industrial Relations* 40, no. 3 (1985): 228.

[55] ILGWU — Ontario District Council and INTERCEDE, *Meeting the Needs of Vulnerable Workers*, above note 17 at 35.

[56] *Ibid.* at 36.

[57] Jean-Guy Bergeron and Diane Veilleux, "The Quebec Collective Decrees Act: A Unique Model of Collective Bargaining," *Queen's Law Journal* 22 (1996): 146, 164.

[58] Ordre professionnel des conseillers en relations industrielles du Québec, "Le travail au noir dans l'industrie du vêtement" (Quebec, May 1997).

[59] *Ibid.* 4–8 *passim*; Interview with Stephanie Bernstein, researcher at the Université du Québec à Montréal, March 1998.

[60] ILGWU — Ontario District Council and INTERCEDE, *Meeting the Needs of Vulnerable Workers*, above note 17 at 36.

Stephanie Bernstein, researcher at the Université du Québec à Montréal, points out that the Quebec *Labour Standards Act* also provides for joint and several liability for workers, including homeworkers not covered by decrees. While the CADA restricts joint and several liability to wages, the LSA covers all "pecuniary obligations," that is, wages, vacation pay, overtime, etc. (Article 95). E-mail correspondence, 14 August 1998.

[61] ILGWU — Ontario District Council and INTERCEDE, *Meeting the Needs of Vulnerable Workers*, above note 17 at 43.

Stephanie Bernstein, researcher at the Université du Québec à Montréal, notes that the Quebec *Labour Standards Act* also provides for successor rights (Article 96). E-mail correspondence, 14 August 1998.

[62] Stephanie Bernstein, researcher at the Université du Québec à Montréal, E-mail correspondence, 25 September 1998.

[63] ILGWU — Ontario District Council and INTERCEDE, *Meeting the Needs of Vulnerable Workers*, above note 17 at 44.

[64] Geoffrey H. Brennan, *The Big Picture: Broader-Based Bargaining and the Decree System. A Review of Canadian and International Experience* (Toronto: Ontario Federation of Labour, 1993), 62.

[65] Bergeron and Veilleux, "The Quebec Collective Decrees Act," above note 57 at 154.

Stephanie Bernstein, above note 60, claims that there are also problems with the LSA inspection and enforcement procedures. She notes that there are not enough inspectors, there are few on-site inspections, and there is a trend to promote mediation between employers and employees rather than seeking prosecutions of violators. E-mail correspondence, 14 August 1998. Also see: "Un dangereux glissement: Des faits troublants sur la Commission des normes du travail," published by the Montreal advocacy group Au bas de l'échelle in 1994.

[66] Brennan, *The Big Picture: Broader-Based Bargaining and the Decree System*, above note 64 at 164.

[67] ILGWU — Ontario District Council and INTERCEDE, *Meeting the Needs of Vulnerable Workers*, above note 17 at 46.

These numbers may at least partially reflect the fact that there is no requirement for registration of the use of homeworkers producing men's apparel because that practice is illegal. However, it is the women's apparel sector — where homework is legal and registration is required — that has experienced the most radical reorganization from factory production to contract shop and home-based production.

[68] Ordre professionnel des conseillers en relations industrielles du Québec, "Le travail au noir dans l'industrie du vêtement," above note 58 at 10. In a June 1998 interview, a representative of the Parity Committee for Women's Clothing (who chose to remain anonymous) noted an interesting change: the number of employees in women's shops has increased from 8,600 in September 1996 to 9,500 currently, which, in his assessment, is due to an increase in exports as a result of the low Canadian dollar.

[69] Ordre professionnel des conseillers en relations industrielles du Québec, "Le travail au noir dans l'industrie du vêtement," above note 58 at 10–11.

[70] *Ibid.* at 29.

[71] "Rapport du Groupe conseil sur l'allègement réglementaire au Premier ministre du Québec" (Québec, 29 May 1998), 17–19.

[72] Interview with member of the Parity Committee for Women's Clothing, June 1998.

[73] Bergeron and Veilleux, "The Quebec Collective Decrees Act," above note 57 at 164.

[74] ILGWU — Ontario District Council and INTERCEDE, *Meeting the Needs of Vulnerable Workers*, above note 17 at 47.

[75] *Ibid.* at 73.

[76] *Ibid.* at 74.

[77] Interviews with Jan Borowy, Judy Fudge, and Alexandra Dagg, above note 22.

[78] ILGWU — Ontario District Council and INTERCEDE, *Meeting the Needs of Vulnerable Workers*, above note 17 at 75.

[79] Interview with Alexandra Dagg, above note 15.

[80] The "open period" is when the collective agreement is up for renewal; workers have the option of decertifying and/or opting for another union.

[81] Interview with Jan Borowy, former Research Director, ILGWU — Ontario District Council, February 1998.

[82] Diane MacDonald, "Sectoral Certification: A Case Study of British Colombia," above note 51.

[83] *Ibid.* at 281.

[84] *Ibid.* at 277.

[85] *Ibid.* at 266.

[86] *Ibid.* at 286.

[87] Textile, Clothing and Footwear Union of Australia, *Fairwear: Stopping the Exploitation of Home-based Outworkers*, A Campaign Kit (Sydney, NSW, Australia: TCFUA, n.d.), Section 5.

[88] Annie Delaney, Textile, Clothing and Footwear Union of Australia, E-mail correspondence, 26 January 1998.

[89] Annie Delaney, E-mail correspondence, 3 July 1998.

[90] Annie Delaney, E-mail correspondence, January 1998.

[91] Annie Delaney, E-mail correspondence, 12 August 1998.

[92] *Ibid.*

[93] Annie Delaney, E-mail correspondence, January 1998.

[94] Textile, Clothing and Footwear Union of Australia, *The Hidden Cost of Fashion,* above note 34 at 4.

[95] Fair Wear Campaign web-site, above note 1.

[96] Textile, Clothing and Footwear Union of Australia, *Fairwear*, above note 87, Section 9.

[97] Annie Delaney, E-mail correspondence, January 1998.

[98] Textile, Clothing and Footwear Union of Australia, "Homeworkers Code of Practice" (Sydney, NSW, 1997).

[99] Annie Delaney, E-mail correspondence, January 1998.

[100] Annie Delaney, E-mail correspondence, July 1998.

CHAPTER 3

Codes of Conduct and Independent Monitoring: Tools to Challenge Sweatshop Practices Internationally

I worked for a maquila where we often worked from 7:00 in the morning until 12:00 at night. Sometimes they would tell us to bring clothes and sheets, and after work we'd just sleep on top of the machines or under the cutting tables. We'd get up at 5:00 a.m., a couple of people at a time, to wash and change. There were only three bathrooms. Pregnant women had it the worst. They had to work under very bad conditions, sometimes in the direct sun. If women got sick they were made to clean the streets of the "zone" when they came back to work.

— Zoila Alvarez, maquila worker in El Salvador[1]

A recent study by the International Labour Organization (ILO) estimates that there are now over 850 export processing zones worldwide, employing 27 million workers, 90 percent of whom are women.[2]

Numerous studies, reports, and testimonials have documented the problems, issues, and needs of women garment workers in free trade zones in Central America, maquiladora factories in Mexico, and export processing zones in Asia.[3] These resources reveal striking similarities in the problems and issues facing women garment workers in export processing zones and maquiladora factories worldwide, including:

- exploitation of very young women workers, some below the legal minimum age (mostly migrants from rural areas, although some are from other countries);
- wages below what is needed to provide basic necessities for the worker and her immediate dependants;
- excessively long hours of forced overtime, often without required overtime pay;
- an intensive pace of production and intense pressure to meet production quotas;
- physical and psychological abuse and sexual harassment;
- forced pregnancy testing and/or pressure to take contraceptives, and other forms of discrimination based on pregnancy;
- inadequate health and safety protections and limited access to health care and social security programs;
- little or no access to childcare facilities;
- inadequate transportation facilities, particularly at night;

- insecure employment;
- an increasing use of subcontracting and homework to further reduce labour costs; and
- mass firings, repression, and sometimes factory closures when workers attempt to organize.

Renewed Interest in Codes of Conduct

The deterioration of labour standards and working conditions in the apparel and other consumer products industries worldwide, caused by a convergence of trade liberalization policies, globalization of production and distribution networks, and deregulation policies of governments, has awakened a renewed interest in voluntary codes of conduct as a tool to re-establish standards across national boundaries.

In the past ten years, there has been a remarkable increase in interest and debate around the merits of voluntary codes of conduct, and some significant movement toward the negotiation of multi-company codes, monitoring systems, and accreditation and labelling schemes. Most company codes of conduct have been developed in response to consumer concerns, media attention and/or organized public pressure about questionable corporate practices. For many companies, a voluntary code of conduct is seen as preferable to increased government regulation. However, there are also risks involved in adopting a code of conduct, since it can draw attention to the company's practices and raise expectations of improvements in those practices.

For many in government, voluntary codes of conduct are seen as the non-governmental regulatory tools for the 1990s. Voluntary codes seem to be compatible with the neo-liberal model of trade liberalization, privatization, deregulation, cost-cutting, flexibility, and global competitiveness. In "Political Economy of Voluntary Codes: Executive Summary," Bryne Purchase, Professor at the School of Policy Studies, Queen's University, explains why governments are attracted to voluntary codes:

> The traditional command and control model of government regulation is increasingly costly to enforce, difficult to apply across national boundaries, inflexible and inefficient. In certain circumstances, the voluntary code may offer some opportunity to reduce these costs.[4]

For this very reason, many trade unionists and social movement activists have been sceptical if not suspicious of voluntary codes of conduct. Many see codes of conduct as nothing more than a public relations tool used to manipulate consumers into thinking that they need not worry about conditions under which products are made or the impact they have on the environment or the community. They worry that consumer campaigns demanding corporate adherence to codes of conduct reinforce our identity as consumers and undermine our identity

as citizens. Even when codes of conduct include provisions for transparency and independent monitoring, many critics see the current emphasis on voluntary codes as at best diversionary and at worst a threat to the regulatory role of the state.[5]

Although we would agree that there are good reasons to be sceptical about the usefulness of voluntary codes of conduct, particularly if there are no provisions for independent monitoring or transparency in the monitoring and certification processes, we believe that voluntary codes need not be a privatized alternative to state regulation, but can actually complement and reinforce the regulatory role of the state. We explore this issue further in chapter 4.

Although most company codes of conduct refer to rights contained in ILO Conventions on issues such as forced labour and child labour, health and safety, non-discrimination on the basis of race, gender, etc., company codes are seldom as inclusive, detailed, or precise as the ILO Conventions. Only a few company codes in the apparel sector — such as those of the GAP and Reebok — recognize freedom of association, and specifically the right to organize unions and the right to bargain collectively.[6] A recent survey by the Washington, D.C.–based Investor Responsibility Research Center found that of the 122 major US companies that responded, only eighteen had codes of conduct that included freedom of association, and only twelve had codes that included the right to organize and bargain collectively.[7]

Company codes have also been criticized for failing to clearly define the limits of their responsibility regarding practices of suppliers, contractors, licensees, etc.[8] These codes often lack specific provisions for implementation or monitoring of supplier compliance. They rarely include provisions for company disclosure of information on suppliers, contractors, subcontractors, and licensees.

In most cases, the gradual improvements in the provisions and language of company codes of conduct have not been the result of growing company awareness, but rather the pressure and persuasion brought to bear on companies by religious organizations such as the Task Force on Churches and Corporate Responsibility (TCCR) in Canada, the Ecumenical Committee for Corporate Responsibility (ECCR) in Britain and Ireland, and the Interfaith Center on Corporate Responsibility (ICCR) in the USA, as well as by individual church groups, religious orders, and multi-sectoral coalitions such as the Coalition for Justice in the Maquiladoras. In 1995, ECCR, ICCR, and TCCR published "Principles for Global Corporate Responsibility, Bench Marks for Measuring Business Performance," for use in dialogue with corporations. The Bench Marks, which suggest specific reference points for assessing a company's performance, are currently being updated and will be ratified in a world conference in 1999.[9]

The International Confederation of Free Trade Unions (ICFTU) has also developed a model code of conduct, based on ILO Conventions, which was adopted by its Executive Board in December 1997. The code is particularly useful in providing labour and other concerned groups involved in negotiating multi-employer codes or demanding improvements in company codes with appropriate language to make companies accountable. The ICFTU model code

includes provisions applicable to the garment industry concerning company accountability for the practices of their suppliers, contractors, subcontractors, and licensees and franchise-holders. It also provides useful language for provisions on corporate disclosure, a living wage, freedom of association, and security of employment.[10]

In the apparel sector, company codes of conduct now usually apply to the practices of the company's suppliers and sometimes their subcontractors, as well as to those of the company itself. This has been the most significant advantage of codes of conduct for retailers in general and the garment sector in particular — the fact that they recognize the responsibility, and by extension liability, of retailers and manufacturers for the practices of their suppliers, contractors, and subcontractors. Codes of conduct for suppliers therefore have the potential of helping to establish accountability of retailers and manufacturers for the conditions of all the workers who produce their products, not only around the globe, but also down the subcontracting chain.

Codes and Monitoring in Canada

> *A compliance policy that is not monitored and enforced is not worth the paper it is written on.*
>
> — Stephen Beatty, former Executive Director, Canadian Apparel Federation[11]

Canadian companies have generally been much slower than their US or European counterparts to develop company codes of conduct. A 1996 survey of Canadian businesses carried out by the Canadian Lawyers Association for International Human Rights (CLAIHR) and the International Centre for Human Rights and Democratic Development (ICHRDD) documents how few Canadian businesses have adopted codes of conduct addressing labour rights issues in their overseas operations. Of ninety-eight firms surveyed, fifty-five refused to say whether they had a code of conduct. Of the forty-three firms that did reply, thirty-four said they had or were developing a code of conduct. Of those thirty-four firms, only six said they had codes that referred to all OECD (Organization of Economic Cooperation and Development) core labour rights.[12] Of those six, only two provided copies of their codes to CLAIHR/ICHRDD, and those two codes "contained few if any reference to core labour standards."[13]

Apparel retailers and textile manufacturers that responded to the CLAIHR/ICHRDD questionnaire — Dylex, Hudson's Bay, Mark's Work Wearhouse, and Dominion Textile — all stated that they had a code of conduct that governed relations with overseas suppliers. Although Dylex stated that its code of conduct refers to freedom of association, the right to organize and bargain collectively, non-discrimination, and elimination of child labour, it did not provide CLAIHR/ICHRDD with a copy of its code for verification.

Of the OECD core labour rights, the Hudson's Bay Company's current code of conduct (the only retailer code provided to CLAIHR/ICHRDD) refers only to the elimination of child labour. (Significantly, all three retailers who responded to the questionnaire stated that their

code of conduct referred to the elimination of child labour.) Although Hudson's Bay claimed to have independent audits, after reviewing its code of conduct, Craig Forcese, author of the report, determined that it did not provide for any form of auditing.[14] The company claims it is currently working with the Retail Council of Canada and the ILO to develop model codes.[15]

In the summer of 1996, the Toronto-based Labour Behind the Label Coalition (LBLC) distributed a similar survey to forty major Canadian retailers involved in the apparel industry. Out of the forty retailers surveyed, only three completed at least part of the questionnaire: Cotton Ginny, Tristan & Iseut Inc., and a small retailer called For World Spirit. A fourth company, which requested anonymity, agreed to be interviewed by a church-affiliated member of the Coalition. Another company, Dylex, responded to a follow-up phone call, but declined to respond to the survey questions once they realized that the Ontario District Council of the Union of Needletrades, Industrial and Textiles Employees (UNITE) was a member of the Coalition.[16]

Of the three completed questionnaires, the response from Cotton Ginny appeared to the Coalition to be the most positive. In an exploratory meeting with officials of the company in the fall of 1996, they expressed interest in the idea of a Wear Fair label and their willingness to explore possible monitoring systems. However, although Cotton Ginny claimed it had a policy on workers' rights and that their policy included freedom of association, their "Ethics Policy on Workers' Rights" is a general statement of principles rather than a code of conduct, and it makes no specific reference to ILO or OECD core labour rights.[17]

Although the LBLC has developed a model code of conduct that refers to both domestic and off-shore production practices, to date it has not made a major effort to gain retailer or manufacturer agreement to the code. This is at least in part due to the reservations of many coalition members as to whether independent monitoring would be feasible and/or desirable in the Canadian context. At the time when the code was developed (1997), some coalition members feared that a voluntary code with provisions for independent monitoring would play into the deregulation and privatization agenda of the Ontario government. The LBLC's model code includes provisions on security of employment, addressing the situation of homeworkers and contract shop employees, and on monitoring and enforcement, which requires retailers to provide information on their contractors, and, "in circumstances where labour legislation is adequate and adequately enforced," commits retailers and contractors to "cooperate with ministry of labour investigations and periodic audits of supplier compliance with that legislation."[18]

Since the Labour Behind the Label and ICCHRD surveys were carried out, there appears to have been some movement by a few major retailers and the Retail Council toward acceptance of codes of conduct. This change in attitude was possibly in response to recent consumer campaigns in Canada and the United States focusing on labour rights abuses in the garment

industry, in both domestic and off-shore production, and increased media attention to and consumer awareness of the issue, as well as growing concern about the issue of child labour in the garment sector and other sectors.

In March 1998, in response to threatened shareholder actions led by the British Columbia Federation of Labour, four major Canadian retailers — Hudson's Bay, Sears Canada, Mark's Work Wearhouse, and Dylex — agreed to support the Labour Behind the Label Coalition's call for a federal task force to look at possible mechanisms to stop sweatshop abuses, including, but not limited to, a voluntary code of conduct and monitoring system.[19]

In the North-South Institute's 1998 *Canadian Development Report*, Ann Weston notes that the Canadian Apparel Federation has commissioned the Swiss company, the Société Générale de Surveillance (SGS) to "help define a social accountability process including certification, monitoring, and enforcement."[20] SGS is also the first company to be accredited by the US-based Council on Economic Priorities Accreditation Agency (CEPAA) to audit corporate compliance with the Social Accountability 8000 (SA 8000) "comprehensive standard" for corporate responsibility. (See SA 8000 below.)

Progress Outside Canada

Although Canadian retailers are just beginning to consider adopting voluntary codes of conduct, events have been moving ahead quickly in other countries. In the United States, and to a lesser degree in Canada, media-savvy consumer campaigns have been pressuring giant US retailers and super-labels to go a step further than voluntary codes of conduct, and accept civil society involvement in the monitoring of contractor compliance with codes. Campaigns focusing on the GAP, Disney Corporation, Levi, Wal-Mart's Kathie Lee Gifford label, and Nike have demanded that those companies' codes of conduct become more than public relations tools for Northern consumers. In demanding independent monitoring by local human rights, labour, and women's groups, these campaigns are pushing corporations beyond self-regulation, shifting the debate from corporate responsibility to corporate accountability.

1. Monitoring in El Salvador

The GAP campaign was the first significant victory in this new stage in the fight to make retailers accountable for the conditions under which their products are made. In December 1995, after a year-long campaign in the United States, Canada, and El Salvador, the GAP agreed to independent monitoring at the Mandarin International maquiladora contract factory in El Salvador's San Marcos Free Trade Zone. This was the first instance in which a major North American retailer mandated local human rights, religious, and labour groups to monitor contractor compliance with its code of conduct.[21]

The El Salvador Independent Monitoring Group (GMIES) includes the Human Rights Institute of the University of Central America (UCA), the Human Rights Office of the Archdiocese of San Salvador, the legal advisory office of the Archbishopric of San Salvador, and the Labour

Studies Centre (CENTRA). According to Benjamin Cuellar, Director of the UCA's Human Rights Institute, the monitoring group has regular access to the factory and has won the trust of the workers and management. Significantly, the monitoring group is focusing as much if not more of its attention on employer compliance with Salvadoran labour law as it is on adherence to the GAP code of conduct. When asked why this is the case, a member of the monitoring group stated that company codes of conduct are too general and that Salvadoran labour law is much more precise on employer obligations.[22]

Probably the most important achievements of the Independent Monitoring Group are: (1) facilitating the reinstatement of 75 of the approximately 300 workers who were fired for supporting a union-organizing drive, including members of the union executive, and who were allowed to re-establish their union without suffering management sanctions; and (2) gaining the agreement of the GAP to continue sourcing from the Mandarin plant and to increase its orders from the factory in order to allow for the reinstatement of fired workers.[23]

Given that Northern consumer campaigns are often accused by Southern governments, employers, and even some Southern unions as being motivated by protectionism and designed to drive away investment and jobs, the fact that this campaign protected jobs and facilitated the reinstatement of fired workers and their union is a significant achievement.

When asked what specific improvements in working conditions independent monitoring has achieved for the workers at Mandarin, Mark Anner, former coordinator of the monitoring group, stated:

> Before monitoring, there wasn't proper drinking water. Locks were put on the bathroom doors, women had to ask permission to go to the bathroom, and their visits were timed. An ex-military colonel was in charge of personnel and he ran the factory like a military barracks. There were problems with forced overtime and poor ventilation. Women had to present a pregnancy test to get a job. Since the agreement, the worst of those violations have been rectified. The colonel has been removed from the factory. The locks have been taken off the bathroom doors, and the women don't have to sign up to go to the bathroom. The company has put in proper water coolers. Women aren't required to present pregnancy tests, nor are they forced to work overtime.[24]

Despite these achievements, there have been a number of criticisms of the independent monitoring experiment at Mandarin. In "Codes of Conduct and Independent Monitoring: Strategies to Improve Labor Rights Enforcement," Bama Athreya of the International Labor Rights Fund points to the fears of many Northern and Southern union activists that independent monitoring could assume some of the normal functions of the democratically elected local union leadership. She notes that at the Mandarin plant the monitoring group has taken on the role of investigating and handling workers' grievances, "thus obviating the need for, and unintentionally undermining support for, a strong, independent union at the factory."[25]

In our conversations with members of the Independent Monitoring Group, they stated that it has not been their intention to replace the role of the union, but that the particular circumstances at Mandarin forced them to assume a mediating role between management and the workers. They noted that there were now two unions in the factory, both of which were certified by the Ministry of Labour, and that the union representing the most workers, ATEMISA, had been set up with the support of management after the supporters of SETMI had been fired.[26] As Athreya states, the monitoring group didn't feel it was their role to "influence workers as to which, if any, union they should support."[27] Former GMIES staff person Carolina Quinteros adds that the monitoring group has respected SETMI's right to define its own strategy to win the support of the workers at Mandarin and its role of representing its members, which, she states, is very different from the mediating role the monitoring group has assumed.[28]

Although the independent monitoring experience at Mandarin has helped to improve conditions for the workers concerned and has served as an example of how monitoring by local human rights groups can work, it appears not to have helped strengthen the workers' capacity to organize themselves and defend their own interests. However, according to Quinteros, the fact that SETMI is currently in a weak position at Mandarin isn't attributable to the existence of independent monitoring. It is the result of historical divisions in the union and among Mandarin workers and reflects the current weakness of the Salvadoran union movement in general.[29]

When asked what independent monitoring has been unable to accomplish at Mandarin, Anner said:

> Independent monitoring has not been able to touch in this one factory the logic of how the industry works, the intensity of the work, which is linked to the production goals. Local factories producing under contract for big US retailers like the GAP or Eddie Bauer have set deadlines they have to meet to fulfill their orders. Profit margins are very low. For the maquiladora owners to survive under this system, they try to keep the pace of production up. They keep a small workforce and demand a lot of overtime when orders are heavy. We can only achieve so much in one isolated factory. The next great challenge is to see to it that all the companies are feeling the same pressure to improve conditions.[30]

If the GAP begins to source from other maquilas in El Salvador, the monitoring group hopes to negotiate the right to monitor conditions in those factories.[31] To date, the GAP has not authorized independent monitoring at any of its other contract factories in fifty countries around the world, nor has it participated in the US Apparel Industry Partnership where negotiations are under way on a multi-company code of conduct and monitoring system.

2. Monitoring in Honduras

The only other example we are aware of in which an apparel company has mandated local human rights groups or other local NGOs to monitor conditions in a factory on an ongoing

basis is at the Kimi maquila garment factory in Honduras.[32] In this case, the agreement allowing for independent monitoring was negotiated with the contractor rather than any of the North American retailers sourcing from the factory.[33]

The Honduran monitoring agreement was signed in June 1997, following a bitter battle that erupted when workers attempted to organize a union. Several workers were fired, international solidarity activities were organized, and US retailers sourcing from the factory, such as Macy and JC Penny, threatened to pull out of Honduras, putting the employment of the 500 maquila workers at risk.

The Independent Monitoring Team (EMI) in Honduras includes CODEH (Committee for the Defence of Human Rights), the Jesuits, CODEMUH (Women's Collective of Honduras), and Diocesan Caritas. Each organization has a long history of investigating conditions in the maquilas of Honduras. Given the high percentage of women in the maquilas, and the lack of a gender perspective of many Central American unions, the participation of a women's group in the monitoring team is an important advance.

The Kimi agreement provides for regular and unannounced visits by the monitoring team and monthly meetings with management and worker representatives. The agreement sets out the short-term priority issues the monitoring team will be addressing, including the treatment of pregnant women workers, accusations of abusive treatment of workers by management personnel, freedom of association, and the situation of the fired union supporters.

As in the Mandarin case, independent monitoring at Kimi has succeeded in facilitating the return to work of some fired union supporters, and it has created conditions that encouraged some North American retailers to continue sourcing from the factory.

However, the Honduran independent monitoring experience has also engendered mistrust between the union at the plant (SITRAKIMIH, affiliated to the FESITRAINCOSH) and the monitoring group, and confusion about roles. In her presentation on behalf of the EMI to a January 1998 conference on independent monitoring in El Salvador, Maritza Paredes pointed to the lack of a clear definition of the role of independent monitoring in relation to that of the union, and the fear by unions that independent monitoring might seek to displace their role.[34]

3. Nike and Independent Monitoring

The very public achievement of independent monitoring in El Salvador has put the issue of monitoring on the agenda both for labour rights advocates in the North and South and for apparel companies worldwide. High profile companies like Nike and Disney that are under continuing criticism for labour rights abuses of overseas contractors have recently hired accounting firms such as Ernst & Young, or professional certification firms such as SGS (Société Générale de Surveillance), to carry out "social audits" of their contractors' practices. Significantly, Nike is now using the term "independent monitoring" to describe what is

essentially contracted external monitoring, even though Ernst & Young is solely accountable to Nike, and Nike has sole access to the auditors' reports. This has provoked a whole new debate on the meaning of independent monitoring and the degree of transparency required for the monitoring process to have legitimacy.

On 12 May 1998, Nike responded to growing protests and continuing criticisms of alleged labour rights abuses and the lack of transparency in its monitoring process by promising to include NGOs in monitoring and to make summaries of their reports public.[35] However, Nike critics are still sceptical about which NGOs will take part, how they will be chosen, whether they will have access to the factories and the workers, who will write the reports, and how much public access there will be to those reports.[36]

Since Nike's May 12 press conference, a team of six US labour rights advocates and health and safety experts, with the support of International Labor Rights Fund (ILRF), Global Exchange, and other US groups involved in lobbying Nike on worker rights issues, has presented a proposal to the company for a labour rights verification system that would involve NGO monitoring. The team is offering its cooperation on a pilot monitoring project in one of the Asian countries where Nike production is concentrated. An earlier discussion paper circulated by the ILRF suggested that such a pilot project would involve "reputable local NGOs, academics and individual activists" in the monitoring process. The team is not requesting funding from Nike.[37]

4. A European Example

One European apparel company that is moving toward involvement of NGOs in monitoring is the French retail chain, Auchan. The company has agreed to "study the feasibility of external independent audits," working toward a system of social certification and labelling.[38] Auchan has also agreed to participate in a monitoring commission along with consumer groups, international NGOs, and unions that will verify the procedures of internal audits and, eventually, external monitoring. The commission will apparently have access to auditing and monitoring reports.

The agreement is partially based on a model code of conduct developed by the Collectif de l'éthique sur l'étiquette, which commits companies to a five-year pilot project to investigate and develop mechanisms for internal audits and external monitoring, certification, and labelling.

Other notable features in the Auchan code are provisions on freedom of association, including the right to organize and bargain collectively, and a living wage at least sufficient to satisfy the basic needs (food, clothing, housing) of the worker and direct dependants.

Reflections on Independent Monitoring

Stephen Coats of the US/Guatemala Labor Education Project (US/GLEP) draws preliminary conclusions from the Central American experience with independent monitoring in a recent paper entitled "Reflections on the Issue of Independent Monitoring." He lists six lessons for future independent monitoring initiatives:

1. *Acceptance by Labor.* Without the support of the workers and local labor leaders, independent monitoring is likely to encounter formidable if not destructive obstacles to its success. This is true even if the factory doesn't have a union, but is absolutely essential if the factory does. And if there is not a relationship of some trust between monitors and labor, the monitors are likely to end up being viewed as in collusion with the company. Conversely, if monitors become the workers' primary representatives to the company, unions will believe that their concerns that monitors might become their substitutes and competitors have been realized, leading to conflicts between those who need to be allies.

2. *Clarity about Roles.* Unless the role of the monitor in a given situation is carefully defined, conflicts and misunderstandings are likely. Certainly monitors are not meant to be neutral. After all, the first job of a monitor is to ascertain whether a company is in compliance with a code of conduct meant to benefit the workers. In that sense, monitors are inescapably advocates for workers. But if monitors move from investigation to enforcement and problem-solving, then they take on the role of representing the workers. Yet independent monitors are by definition not the representatives of the workers, which is the role of unions.

3. *Credibility.* Monitors must have credibility with a sufficiently broad spectrum of civil society to be effective, and can't be seen as uncritical mouthpieces of workers or as having a political agenda that interferes with their objectivity.

4. *Caution with Regard to Outside Funding.* The prospect of a secure and substantial source of funding from North American companies, foundations and/or aid agencies may lead to divisions and tensions among local groups based less on principle than on competition for scarce resources. While some groups have approached the prospect of being engaged in contracts with US companies with due care, others have shown an unseemly interest in serving as monitors.

5. *Capacity and Training.* Monitoring groups composed of religious and human rights advocates do not necessarily have the expertise or staff to take on all aspects of monitoring a code of conduct. Training and capacity building are needed on health and safety, auditing books, labor law and other issues.

6. *Distinguishing Between Short-term and Long-term Approaches.* Independent monitoring has taken two forms in Central America: one in which the monitor is brought in to serve as a permanent oversight group (e.g. the two-year-old independent monitoring group in El

Salvador) and another in which a monitor is brought in specifically to assess one set of issues and then leave (e.g. Human Rights Watch in the Phillips-Van Heusen struggle in Guatemala). Which is more appropriate will depend primarily on the context, but a permanent presence clearly raises more issues than the one-shot approach."[39]

Elaine Bernard, Executive Director of the Harvard Trade Union Program, suggests the following general principles to ensure the authenticity of monitoring processes in a paper presented to an April 1997 conference on independent monitoring in New York, titled "Ensuring Monitoring is Not Co-opted." According to Bernard, to avoid being co-opted, monitoring must be:

- independent from the corporate sector and the government;
- ongoing, with regular access to workers and workplaces (not ad hoc, one-time events such as high-publicity celebrity visits);
- institutional, with assured resources and independent authority;
- indigenous, involving people who live in the country, have an on-the-ground presence, and speak the workers' language;
- trusted by the workers, protective of their confidentiality, and with a proven track record in the country;
- knowledgeable about the work process and what is common practice;
- transparent, with a communications infrastructure, the right to communicate information without corporate screening, and the right to go public when necessary.[40]

According to Bernard, the above general principles "are all necessary components to breathe life into the promise of any 'code of conduct' or indeed, any claims of 'good employer' practices."[41]

A cautionary note on the role of NGOs in independent monitoring is raised by Neil Kearney, General Secretary of the International Textile, Garment and Leather Workers Federation (ITGLWF). Kearney is concerned that in their eagerness to play a role in negotiating and monitoring company codes, NGOs are in danger of neglecting their historical role of exposing abuses and organizing activist campaigns, thereby taking the pressure off companies to make significant changes in their labour practices.[42]

However, Carolina Quinteros of the El Salvador Independent Monitoring Group cautions against drawing premature conclusions based on the two experiences with ongoing independent monitoring in Central America, or treating either experience as a model. She notes that the two independent monitoring experiences are very distinct, with different levels of support of civil society, different experiences with unions and factory managements involved, and different relations with the transnationals and with the international community.[43]

Independent Monitoring and Labour Legislation

Since the relationship between independent monitoring and enforcement of local labour legislation is an issue that has been raised by a number of critics of voluntary codes, it is worth noting that both the Salvadoran and Honduran monitoring groups appear to be putting more emphasis on monitoring compliance with labour legislation than with any specific corporate code of conduct. At the January 1998 El Salvador conference, Maritza Paredes of the Honduran Independent Monitoring Team emphasized the importance of continuing to pressure ministries of labour to play an effective role in monitoring and enforcing labour legislation. Neither monitoring group saw independent monitoring as a privatized alternative to state enforcement of national labour laws.[44]

Bama Athreya of the International Labor Rights Fund points out that in many countries the problem is not just a lack of enforcement of labour laws. For instance, the right to organize and bargain collectively is denied to workers in export processing zones in Pakistan, Bangladesh, and Malaysia, while the right to organize independent unions is greatly restricted in other centres of garment export production, such as Indonesia and Mexico. "Codes of conduct have the potential to play a critical role in the promotion of free trade unions in such places," says Athreya, "provided they contain language protecting workers' rights to associate and form unions and to bargain collectively. By pressuring MNCs not only to adopt but to honour such language, worker advocates may be able to create a context within which free trade unions can develop even under restrictive legal frameworks."[45]

Athreya suggests that an important role for monitoring groups is to collect information on worker firings for union activity and to immediately pressure for the workers' reinstatement. She argues that in countries like China where independent union organizing isn't permitted, "pressure [around worker firings] from Western consumers and advocacy groups is far more likely to be effective than recourse to local judicial processes ... [and] is also likely to act as a deterrent to any future such firings, thus removing a significant obstacle to union organizing."[46]

Southern Reactions to Northern Codes

Between October 1997 and February 1998, the UK-based Women Working Worldwide (WWW) carried out a research and consultation exercise with women's groups in six Asian countries on the potential value of codes of conduct for both workers' organizations and workers themselves. Most striking — although perhaps not surprising — in WWW's preliminary report is that very few of the workers involved in the research knew anything about codes of conduct.[47]

In Pakistan, this lack of knowlege of codes apparently extended to government and ILO officials. "During the research we also got a chance to talk with the Labor Department and other government officials who deal with labour issues. Their conversation demonstrated that

they do not have clear concept about codes of conduct. Even many of them asked what is a code of conduct? During the Sialkot visit [sub-contractor to Adidas] we also met people from the ILO who are working as program monitors of the ILO. They told us they do not know about codes."[48]

> Workers from both groups heard for the first time about a code of conduct. They told us that not one clause of the code was implemented. There was no union, no living wage, even no minimum wage and no minimum working hours. Besides, child labor is also there.
>
> — Pakistan focus group, research report, WWW consultation

In response to the question "Can company codes strengthen the bargaining position of workers?" the general consensus from the workers interviewed was affirmative, but with the following three qualifications:

1. Workers have the right to organize and bargain collectively. Without this right, codes could undermine attempts to establish collective bargaining. It was suggested that freedom of association was a prerequisite for the effective implementation of codes.
2. Workers have full knowledge of codes and are involved in decision making. Without this knowledge and participation, codes would be seen as a bureaucratic instrument being imposed from above rather than as an organizing tool.
3. Codes are promoted as one strategy among many. The promotion of codes should not divert attention away from other strategies for improving workers' rights.[49]

There was also agreement that all codes should include workers' fundamental rights, including the right to organize, and that workers needed to be involved in the monitoring process. In response to the question of whether or not model codes were appropriate for workers in the informal sector, it was pointed out that "many of the clauses in existing codes did not meet the needs of informal sector workers. ... Yet if codes are to be effective it was seen as essential that they are applied to workers who are not factory based, since these workers are growing in number and are the most exploited."[50]

When asked what consumer campaigners and trade unionists in Europe and America could do to help, the Indian participating group suggested that groups in the North could "monitor the policies of their own governments, and oppose any spurious anti-dumping and other protectionist measures which have a detrimental effect on garment workers in our countries."[51]

The Asia Monitor Resource Center (AMRC) echoes the concerns raised in the WWW consultation process. First and foremost, the vast majority of workers are not aware of the existence of codes for the factories in which they work. "Overwhelmingly, people with whom we have met that are not connected to campaigns in the 'North' are not aware of codes of conduct of transnational corporations. ... Most people have no idea what they are. For example, we asked workers at sports shoe factories in Southern China this summer about

codes of conduct at their factories. Though the workers were producing for companies that advertise their code to consumers, very few workers knew about the code of conduct. Some actually thought we were asking about the factory rules which list fines given for various infractions."[52]

> The workers I interviewed knew about Reebok's Code of Conduct, but they never read it carefully because the employer put the code only on the window of the factory security building. The workers felt that the security guards always watched who was reading the code and carefully kept their eyes on the workers who wanted to read the code. The workers fear that if there is ever a strike in the factory, the workers who were seen by security guards reading the code will be suspected as leading the strike.
>
> — Poengky Indarti, an Indonesian lawyer, interviewed several workers at PT. Victory Long Age who made goods for Reebock.

According to AMRC, while "some workers' organizations have commented that [codes are] a good instrument to stress the importance of workers' rights and companies' duty to provide safe and adequate work places ... [they] must not overshadow the importance of continuing to pressure governments to enforce their own existing labour and health and safety laws, and to pass legislation to protect its workers. Codes of conduct are seen as one means of improving working conditions."[53] AMRC also points to the limitation of codes of conduct in touching the growing number of Asian workers in the informal sector.

AMRC raises the following critical questions for work on codes:

> [W]e need to identify what role we want to play in our relationship with transnational corporations (TNCs) who are developing codes of conduct. For example, are we willing to work with TNCs to develop this monitoring system? How can we accomplish this without appearing to be acquiescing to TNCs or accepting their paper code of conduct as a genuine intention to improve workers' rights? What impact will NGOs and campaigners for the conditions of workers' organisations working together with TNCs have on future campaigns or efforts to promote workers' rights? Will this relationship affect the strategy of fighting for workers' rights? How can monitoring be accomplished without incurring these negative side affects? How can we avoid the situation where the concerns by Northern consumers and workers in the South ends up leading to unintended consequences for workers?[54]

Multi-Company and Industry-Wide Codes

At the same time as anti-sweatshop campaign organizers are mobilizing consumer pressure on particular brand name apparel and footwear companies to go beyond self-regulation and accept independent monitoring, national and international labour and non-governmental

organizations are pressuring apparel and sporting goods companies and their associations to negotiate multi-company or industry-wide codes of conduct and monitoring and accreditation systems.

The advantages of multi-firm and industry-wide codes and monitoring systems over individual company codes are fairly obvious:

- the fact that many contract factories and subcontract sewing workshops produce for more than one Northern apparel company;
- the reluctance of even major apparel companies to risk adopting higher standards that might be undercut by their competitors;
- the problem of inconsistency in the provisions in different company codes and the lack of agreed-upon guidelines and standards for monitoring and accreditation of monitors.

One of the key elements of multi-company and industry-wide codes of conduct and monitoring systems is the development of certification systems and labelling schemes, in order that consumers can identify apparel produced under ethical conditions, and so that unions, NGOs, and citizens can challenge decisions regarding the certification of particular companies. Although there are no major examples at present of the adoption of a labelling system by companies in the garment and footwear industries, many of the apparel industry code initiatives hope to develop labelling programs in the future.

International trade lawyer and analyst Christine Elwell believes that independent monitoring, certification, and labelling are a preferred option at this moment because they are "GATT legal." Both Elwell and Sheila Katz of the Canadian Labour Congress point to the tuna/dolphin case in 1992, noting that although in that case you couldn't enforce a product or import ban, you could require a label for consumer information.[55]

While some Southern governments might argue that the expense of meeting labelling and certification requirements is a barrier to trade, Elwell notes that sustainable forest product groups have answered that criticism by helping to finance the ability of Southern producers to qualify under labelling programs.[56]

Below are several examples of agreements that have been reached and initiatives that are currently in process on multi-company or industry-wide codes of conduct, monitoring, and certification systems:

1. FIFA Code of Conduct

In September 1996, a model code of conduct for the production of soccer balls was agreed to by the International Federation of Football Associations (FIFA); the International Textile, Garment and Leather Workers Federation (ITGLWF); the International Federation of Commercial, Clerical and Technical Employees (FIET); and the International Confederation of Free Trade Unions (ICFTU). The negotiation of the code was prompted by the strong public

reaction to reported exploitation of children in the production of soccer balls in Sialkot, Pakistan. According to Bama Athreya, of the International Labor Rights Fund (ILRF), the FIFA Code is one of the most comprehensive codes of conduct that has been developed to date, which is at least in part due to the fact that no industry representatives were involved in its development.[57]

The Code requires the international soccer federation to ensure that all soccer balls and other FIFA-licensed products or components of those products are not made under sweatshop conditions or by child labour. It prohibits the use of forced or bonded labour, child labour under the age of fifteen, excessive hours of work and overtime, and discrimination in employment. It guarantees freedom of association and the right to bargain collectively, a safe and hygienic working environment, and wages and benefits meeting "at least legal or industrial minimum standards and ... sufficient to meet basic needs and provide some discretionary income."[58] The wage provision is particularly significant, since there are very few codes that require employers to pay a "living wage."

Another important feature of the FIFA code is that it applies to contractors and subcontractors, as well as to licensees. It also discourages abuses of temporary, casual, and apprentice labour, stating: "Employers should endeavor to provide regular and secure employment and refrain from the excessive use of temporary or casual labour. Obligations to employees arising from the regular employment relationship should not be avoided through the use of labour-only subcontracting arrangements, or through apprenticeship schemes where there is not real intent to impart skills or provide regular employment."[59] These provisions are particularly important for women workers.

The FIFA code includes provisions for monitoring that require licensees, their contractors, and subcontractors to permit inspections at any time by approved inspectors, to maintain and make available to the inspectors on request the name, age, hours worked, and wages paid for each worker, and to refrain from "disciplinary action, dismissal or otherwise discriminating against any worker for providing information concerning observance of the Code."[60]

According to Athreya, the FIFA code "attracted considerable anxiety and animosity" from the World Federation of Sporting Goods Industries (WFSGI), which proceeded to negotiate its own code with the ILO, UNICEF, Save the Children UK, and the Chamber of Commerce of Sialkot. This code, which is focused on the issue of child labour, is called the Partners' Agreement to Eliminate Child Labour in the Soccer Ball Industry.[61]

To date, the FIFA logo indicating that licensees are abiding by the code has not been adopted by soccer ball manufacturers or importers. However, FIFA has endorsed the Partners' Agreement in Pakistan, and the Irish Congress of Trade Unions and the Football Association of Ireland have agreed to a code of conduct based on the FIFA code.

2. Apparel Industry Partnership — USA

The Apparel Industry Partnership (AIP) is the product of an anti-sweatshop task force launched in August 1996, largely at the initiative of then-Secretary of Labor Robert Reich. US President Clinton appointed the task force with the mandate "to ensure that the products companies make and sell are manufactured under decent and humane working conditions, and to develop options to inform consumers that the products they buy are not produced under exploitative conditions." According to the US Interfaith Center on Corporate Responsibility (ICCR), "the Secretary's initiative was inspired in part by Kathie Lee Gifford's response to news that children were sewing garments under her label at a maquiladora factory in Honduras."[62]

Participants in the AIP include many of the "super-labels" that have come under attack for their association with sweatshop practices in Asia and Latin America, including Nike, Reebok, Liz Claiborne, Phillips-Van Heusen, and Kathie Lee Gifford, as well as L.L. Bean, Patagonia, Tweeds, Nicole Miller, and Karen Kane. Religious, human rights, and labour rights advocacy groups involved include: the ICCR, the International Labor Rights Fund (ILRF), the Lawyers Committee for Human Rights, the National Consumers League, the Retaii Wholesale and Department Store Union (RWDSU), the AFL-CIO, the Robert F. Kennedy Memorial Center for Human Rights, and the Union of Needletrades, Industrial and Textile Employees (UNITE).

On 14 April 1997, the Apparel Industry Partnership released a preliminary anti-sweatshop agreement, titled "Workplace Code of Conduct and Principles of Monitoring." The AIP agreement includes provisions for a multi-company code of conduct and general principles for external monitoring and a certification process. Companies that adopt the Workplace Code of Conduct will have to require their suppliers and contractors to comply with appropriate legislation and the provisions of the code. A non-profit association will be created, with representation from the companies, unions, religious groups, and NGOs. Their role will be to determine criteria for company membership, develop criteria and implement procedures for the certification of external monitors, design audit and other instruments for the monitoring practices, help build members' capacity to remedy instances of non-compliance, and serve as a source of information to consumers about the code and the companies that comply with the code.[63]

While most US labour rights activists have applauded the Workplace Code of Conduct's recognition of freedom of association and the right to bargain collectively, provisions on wages[64] and hours of work[65] have generated a great deal of criticism and debate. There has also been considerable controversy around the issues of monitoring, certification, and the degree of involvement of Southern groups in the monitoring process. In an April 1997 media release, Global Exchange and five other US labour rights advocacy groups criticized the AIP agreement for "not mandating that companies pay workers a living wage, for sanctioning excessive overtime, and for allowing accounting firms rather than human rights groups to monitor the companies' labor practices."[66]

Since the release of the agreement, the parties have continued to negotiate difficult issues related to monitoring and certification, and transparency of those processes, as well as revisiting controversial issues such as wages. According to Pharis Harvey, who is involved in the negotiations on behalf of the International Labor Rights Fund, some of the contentious issues that have not yet been resolved include:

- What does it mean to be in compliance with the code? For instance, what percentage of production facilities would have to be monitored in order to be certified?
- How much information do you provide to the public: information on all inspections or just whether or not a company is certified?
- Who are the monitors? Are financial auditors the appropriate bodies to do "social audits"? What other kinds of groups should be involved?
- How involved are workers in the monitoring?
- How do you define a living wage?[67]

At the time of this writing, it is unclear whether sufficient consensus will be achieved to allow the AIP to reach the implementation stage. However, it appears that general agreement has been reached on a monitoring system in which the participating companies would hire external monitors from a pool agreed upon by the different parties involved in the AIP. In answer to an AIP questionnaire, the Clean Clothes Campaign (CCC) in the Netherlands argues against the adoption of this model, stating, "It is hard to imagine a situation where workers would feel safe reporting complaints directly to either the company or to a certified commercial enterprise that is under contract by the company."[68]

3. Fair Trade Charter for Garments — Netherlands

A model code of conduct called the Fair Trade Charter for Garments was developed in the Netherlands in 1994 by the Clean Clothes Campaign, the Dutch union federation FNV, and the overseas development organization NOVIB. The Charter is based on ILO Conventions on freedom of association and the right to bargain collectively, hours of work (48 max./week), non-discrimination, a living wage, health and safety, and the elimination of child and forced labour. The Charter applies to the entire subcontracting chain, including home-based workers. Companies in compliance with the Charter would have the right to use a trade mark indicating that the clothes they sell are "clean."[69]

The inclusion of strong language on freedom of association, hours of work, and a living wage can be attributed to the fact that the code was first developed by unions and social movement actors, and only later agreed to by apparel associations in response to public pressure generated by the Clean Clothes Campaign.

In 1996, the garment manufacturers' association (FENECON), the federation of middle-sized retailers (MITEX), and the Dutch Clothing Convention (NKC) agreed to participate in a working group, together with the CCC, FNV, and NOVIB, to discuss the possible creation of

a foundation to oversee the implementation and monitoring of the Charter. As of April 1998, the parties in the working group have reached agreement on a number of issues related to the establishment of the foundation:

- The foundation's governing board will have equal representation from each of the four sectors involved: union, NGO, retailer, and manufacturer, plus a jointly chosen independent chairperson.
- Individual companies will not become members of the foundation, for they are already represented on the board by their sectoral organizations. Instead, a company that accepts the standards and monitoring principles outlined in the Charter will sign a contract with the foundation that spells out the tasks of all parties involved, as well as how monitoring will be carried out.
- A five-year period will be allowed before all production has to be up to standard.
- The foundation will have the role of certifying external monitors, which can include quality control companies, accountants, NGOs, and individuals. The external monitors will be contracted by the foundation, which will also receive their reports.
- The industry will bear most of the costs involved, but as their contribution goes to the foundation rather than to the monitors directly, there would appear to be few opportunities for abuse.[70]

According to Ineke Zeldenrust of the CCC, major discussion has focused on who will select the certified monitors and who will receive the reports. Even though there is now agreement on the text on this issue, it will continue to be an area of discussion. Another issue has been how active the monitors have to be in the field, with some employer groups feeling that monitors should only check a production site in cases of extreme suspicion. Although there is agreement that the foundation will receive complaints — and if they deem it necessary, send a monitor to investigate — there is not agreement on how active the foundation should be in this area, nor on when they should send monitors.[71]

An unanticipated area of debate is around the fact that the original Fair Trade Charter does not include a provision on security of employment (see FIFA code above), which is included in the European Clean Clothes Campaign's Code of Labour Practices in the Garment Industry including Sportswear. While union and NGO representatives want to add security of employment to bring the Dutch code in line with the European code, employer groups are opposing its inclusion.[72]

In the Dutch model, there is no government involvement in the process, though they are seeking political support from the government and financial support for a pilot project.[73]

4. European Union Code of Conduct

On 22 September 1997, the European Trade Union Centre of Textiles, Clothing and Leather Workers (ETUC/TCL) and EURATEX, the European employers' association for garment and

sportswear, signed a code of conduct concerning the labour practices of European companies, their subsidiaries, and subcontractors in the South. The code includes provisions on child labour, forced labour, discrimination, and the right to organize. According to the *Clean Clothes Newletter*, the agreement was to have been submitted to the European Commission in July 1998. Following that submission, the precise terms and procedures for monitoring would have been negotiated.[74]

A second European code, the Code of Labour Practices in the Garment Industry including Sportswear, also supported by the ETUC/TCL and by groups involved in the European Clean Clothes Campaign network, has not yet been agreed to by the apparel companies. It contains provisions on freedom of association and the right to bargain collectively, hours of work, a living wage, non-discrimination, health and safety, child and forced labour, and security of employment. The second code is based on the Fair Trade Charter negotiated in the Netherlands, with the addition of the clause on security of employment.

5. SA 8000

On 15 October 1997, the US-based Council on Economic Priorities Accreditation Agency (CEPAA) announced the adoption of a "comprehensive global verifiable standard for auditing and certifying corporate responsibility," called Social Accountability 8000 (SA 8000).[75]

The CEPAA initiative is an attempt to develop a comprehensive set of labour rights standards that will be applicable to all industries, including public sector institutions, in all countries. Although the SA 8000 Guidance Document does not yet cover the agricultural sector or extractive industries, there may be a future Guidance Document and/or SA 8001 and SA 8002 to address those sectors. SA 8000 standards are based on ILO Conventions, the United Nations Convention on the Rights of the Child, and the Universal Declaration on Human Rights. At present, SA 8000 does not specifically address homework other than to reference ILO Convention 177, but future revisions will apparently address home-based production practices.

The objective of the SA 8000 initiative is to bring consistency to the labour rights standards now contained in various and competing codes of conduct, and to procedures for social auditing, and to offer "clear guidelines for public disclosure of appropriate audit information." The role of the CEPAA will be to accredit organizations, which, at least in theory, could be NGOs as well as professional certification firms, and to conduct third-party audits of companies and/or their suppliers. These organizations will then monitor the labour practices of a particular company and certify if it is in compliance with SA 8000 standards.

Although NGOs are not specifically excluded as organizations that could be accredited as social auditors, they would need to be contracted by companies seeking SA 8000 certification. It is therefore more likely that professional certification firms such as SGS International Certification Services (SGS ICS) and Det Norske Veritas (DNV) will play this role, while NGOs and unions and other worker organizations will be consulted as part of the auditing

process. However, NGOs and unions will have the right to make appeals to the certification body or to the CEPAA for the revocation of the accreditation of a certification firm. In effect, NGOs and unions would be relegated to the role of monitoring the monitors. However, it should be noted that CEPAA has so far been willing to offer pro bono auditor training to a limited number of NGOs, including Southern groups, who are interested in building their capacity to monitor company compliance with labour rights criteria.

An important advocate of the SA 8000 approach has been Neil Kearney of the ITGLWF. Kearney believes that given the enormous challenge involved in applying consistent criteria to the monitoring of even one company's thousands of contractors in numerous different countries, professional certification firms are likely to play the primary verification role, while unions and NGOs should be actively involved in briefing the verifiers, monitoring the monitors, and raising complaints when needed.[76]

A June 1998 media release from SGS ICS announced that the multinational certification firm has been approved as the first organization accredited by CEPAA to audit companies seeking SA 8000 certification. According to the media release, SGS ICS is part of the SGS Group, "the world's largest international inspection, testing, and certification organization ...," with operations in 140 countries, and with 354 subsidiaries, 365 laboratories, and 39,000 workers.[77]

Although there have been very few criticisms of the provisions and language contained in the SA 8000, a number of labour rights advocates have been critical of how accreditation, monitoring, and certification will be carried out. Janneke van Eijk of the CCC questions which workers are covered by SA 8000. She notes that SA 8000 doesn't necessarily apply to all contractors, suppliers, subcontractors, and licensees, since a company can choose to apply for certification just for its own facilities. She stresses the importance of the standards also applying to homeworkers.[78]

Judy Gearhart, a researcher for CEPAA, replies by pointing out that SA 8000 cannot be used as a label, and that "companies will need to specify what level of participation they have in the SA 8000 system, i.e. how many or what percentage of their products come from certified facilities, regardless of whether they are their own factories or suppliers or subcontractors."[79]

Van Eijk also raises a number of questions about the SA 8000 monitoring process, including:

- What steps will be taken to gain workers' trust and guarantee that workers will not suffer repercussions for speaking out?
- How will NGOs and unions be involved in the monitoring process, and who will select the NGOs?
- What access will the CEPAA have to information gathered by the auditors?[80]

Bama Athreya of the International Labor Rights Fund feels that the greatest weakness of SA 8000 is its lack of accountability to consumers. "It is unclear, under the plan, who will make decisions on accreditation of monitors and what criteria will be used, ... to whom the auditor will report, what steps should be taken when violations are found, and in what ways the company will be monitored in order to ensure correction of the violation has taken place."[81] Athreya prefers the foundation model of the CCC, which she feels is a more transparent monitoring body.

In answer to these criticisms, Gearhart notes that the CEPAA accompanies certification bodies on "witness audits" prior to accreditation and then every six months. As well, reports from accreditation audits are turned in to the CEPAA Accreditation Review Panel, which is made up of CEPAA Advisory Board Members and always includes equal representation from unions or NGOs and companies.[82]

6. Ethical Trading Initiative — UK

Like the Apparel Industry Partnership in the United States, the United Kingdom's Ethical Trading Initiative (ETI) was initiated and nurtured by government, in this case by the UK government's Department for International Development and its minister, Clare Short, with the support of the Department of Trade and Industry. The ETI is also receiving substantial financial support from the government — a commitment to cover over half the anticipated costs for the first three years of the process. Unlike the Apparel Industry Partnership, the ETI is multi-sectoral, involving companies from a variety of sectors, including supermarket chains, clothing retailers, a beverage company, and even a telecommunications company. Its focus is on improving labour practices in the global supplier and contract chain of companies trading in the United Kingdom.[83]

The approach of the ETI seems to be to encourage a lengthy process of dialogue between the different sectors and interests involved in order to gain consensus on the terms of a multi-sectoral Supplier and Sourcing Code, membership requirements, and principles of monitoring and auditing. The ETI is also interested in developing training programs for monitors and auditors, and in helping build coalitions of organizations in the South that could carry out monitoring and verification work. It is not clear whether the ETI will eventually develop an accreditation program or foundation approach, or whether it will continue to evaluate and encourage the development of codes of conduct and mechanisms for independent monitoring.[84]

7. Southern Initiatives

Although most initiatives for industry-wide or multi-company codes of conduct have originated in the North, there are some examples of initiatives by Southern groups to pressure manufacturers' associations and sometimes ministries of labour to accept and endorse voluntary codes of conduct. Significantly, the focus of these efforts is to bring pressure on foreign investors, often in free trade zones, that manufacture clothing and other consumer products on a contract basis for North American or European retailers or super-labels. Many

of these contract manufacturers are multinationals in their own right, companies that have moved production from their country of origin, usually Korea, Taiwan, or Hong Kong, to poorer Asian, Latin American, or Caribbean countries offering cheaper labour and weaker or non-existent unions.

One example is the Code of Ethics developed by the Central American Network of Women in Solidarity with Maquila Workers. The emphasis of the code is on issues specific to women maquila workers, including discrimination, social security benefits, physical, psychological and sexual abuses, excessive overtime, the rights of pregnant workers, etc. The code has been criticized by unions for not including freedom of association and the right to organize and bargain collectively. However, in the one instance to date in which a maquila owners' association and ministry of labour have endorsed the code, the Network has insisted that freedom of association be included.[85]

The Central American women's network has used the code both to educate workers and the broader population about workers' rights in the maquila, and also to bring pressure on maquila owners' associations and the ministries of labour in the respective Central American country to commit themselves to abiding by and enforcing a common charter on women workers' rights. On 1 February 1998, in front of 500 women maquila workers, the Nicaraguan Minister of Labour, Wilfredo Navarro, signed a proclamation for the free trade zone based on the Code of Ethics, but also including freedom of association. On 2 February, the owners of all twenty-three maquilas in the zone signed an agreement to adhere to the terms of the proclamation.[86]

Although the code has served as an effective educational tool, there are no provisions for independent monitoring of compliance, nor is there much evidence that the Nicaraguan Ministry of Labour is actively enforcing the provisions of the proclamation.

A second example of an industry-wide code of conduct in which Southern groups have played a leadership role is the Charter on the Safe Production of Toys. In this case, the model industry-wide code of conduct, which focuses on health and safety issues, was developed by the Hong Kong-based Coalition for the Safe Production of Toys after two major fires occurred in toy factories owned by Hong Kong interests. Although the charter focuses on conditions in the toy industry rather than the apparel industry, many of the issues addressed and the contract system involved are similar. Several toy industry associations, including the British, European, and International toy associations, and the Hong Kong Toys Council, have responded to the charter and the international campaign around it by developing their own codes of conduct. The industry codes tend to focus on forced and child labour and adherence to local health and safety legislation, but generally fail to recognize toy workers' rights to organize and bargain collectively or the need for independent monitoring and enforcement mechanisms.[87]

Another recent example of a model code of conduct specifically addressing the labour practices of manufacturers is the Draft NGO Charter on Transnational Corporations. Although

this charter has been developed by Japanese labour and NGO groups and focuses on the labour practices of Japanese multinationals in other Asian countries, the code is seen as applicable to all Asian overseas investors. According to Jennifer Porges of the Asia Monitor Resource Center (AMRC), the Japanese network doesn't see the charter as a code to be adopted and implemented by companies, but rather as a guideline for their work, which includes working with other similar groups in Asia to monitor conditions in factories producing Japanese goods.[88]

According to Gerard Greenfield of AMRC, "Clearly the Charter (and the East Asian movement that it represents) will help us to develop more effective strategies for targeting the East Asian TNCs which remain the 'weak link' in existing international campaigns. Of course the Charter is not simply a part of existing international campaigns, but is in itself an important regional alternative to many of these campaigns."[89]

The Canadian Government and Codes of Conduct

Although the Department of Foreign Affairs and International Trade has declared its support for private sector codes of conduct, to date it has not been as proactive as governments in the United States, the United Kingdom, and the European Union in facilitating and supporting multi-stakeholder fora and initiatives to find solutions to domestic and off-shore sweatshop abuses. The Apparel Industry Partnership in the United States and the Ethical Trading Initiative in the United Kingdom in particular are initiatives in which the respective governments played a major role in bringing together the various stakeholders, facilitating the

The Self Employed Women's Association (SEWA) grew out of the Women's Wing of the Textile Labour Association. In 1972, SEWA became India's only independent women's union.

SEWA members include hawkers and vendors; manual labourers and service providers; and home-based workers such as weavers, potters, bidi rollers, garment workers, and agricultural and handicraft producers.

Over one-third of SEWA's 250,000 members are home-based workers. Any self-employed woman can become a member of SEWA by paying a membership fee of 5 rupees per year. Every three years the members elect their representatives to the Trade Council, who in turn elect the 25- member Executive. Close to 85 percent of SEWA's staff come from the membership of the union.

SEWA's Cooperative Bank was set up in 1974 to provide SEWA members access to credit facilities. Today the bank has over 81,000 depositors and a total working capital of US$4.6 million.

SEWA operates over seventy co-operatives where women learn principles of democratic functioning and develop business and leadership skills. SEWA has trained members as community health care workers, established its own maternity benefits (1978), and lobbied the Labour Ministry to provide maternity coverage to landless agricultural workers.

SEWA was the key force behind the twenty-year struggle to gain international trade union action for the regulation and organization of homeworkers. SEWA was the backbone in the successful struggle to establish an International Convention recognizing homeworkers and their rights.

process, and in the case of the Ethical Trading Initiative, providing generous financial support.

Until recently, the Canadian government seems to have adopted the view that codes of conduct are best left to the private sector. In a September 1997 letter to Lloyd Axworthy, the Canadian Labour Congress (CLC) stated that "a major shortcoming of the process [in developing the International Code of Ethics for Canadian Business] ... is that neither unions, international development organizations, nor human rights groups were involved in the drafting process in a meaningful way."[90]

However, in a reply to the CLC, Axworthy did leave the door open for future dialogue when he stated: "During my discussions with them [private-sector representatives] I suggested that they consider working with the NGO community on monitoring and enforcement mechanisms for the code."[91]

In July 1998, the Committee for Asian Women (CAW), a women workers regional network based in Hong Kong, launched a signature campaign to address the "deteriorating situation of women workers in Asia, particularly with the rapid expansion of casual and flexible forms of employment.
CAW is calling on governments to:

- immediately ratify the International Labour Convention on Part-time Workers (175) and the Convention on Home Work (177);
- establish national policies, laws, and regulations according to the ILO Conventions to guarantee the legal rights of part-time and homeworkers;
- implement these policies, laws, and regulations at local levels to ensure that part-time and homeworkers are protected;
- set up an effective mechanism to inspect, monitor, and ensure the protection of the rights of casual and flexible workers;
- implement adequate remedies, including penalties, for violations of these laws and regulations.

In response to an October 1997 open letter from sixteen Canadian organizations[92] calling for a multi-stakeholder task force on sweatshop abuses, Minister Axworthy stated that the Office of Consumer Affairs of Industry Canada, together with the Treasury Board Secretariat, is developing a guide on the use of voluntary codes, but then went on to say: "I believe that a private-sector led approach to developing such codes is the best way to achieve effective results in this important area."[93]

Since the October open letter, a second call for a task force has been made from a broader representation of Canadian organizations. On 23 June 1998, representatives of this broader coalition presented petitions, signed by 30,000 Canadians and over 200 national, regional, and local groups, to Minister Axworthy calling for a task force. Those organizations and individuals are awaiting the government's response. According to Barbara Anderson, the Canadian Coordinator for UNITE's Stop Sweatshop! Campaign, her union wants to be part of a task force that "would look at a number of ways to challenge the spread of sweatshop abuses, including government policy and legislation, better access to information, as well as codes of conduct and monitoring systems."[94]

A federal task force on sweatshop abuses could therefore be an opportunity for the Canadian government not only to initiate and facilitate multi-stakeholder discussions on voluntary codes and monitoring systems, but also to explore how government policy could complement and reinforce the effectiveness of an industry-wide code of conduct and monitoring system.

Key areas of government policy that could complement and reinforce an industry-wide code include:

- the use of preferential tariffs, linked to the negotiation of development pacts, to promote adherence to ILO labour rights conventions;
- government procurement policies giving priority to apparel produced in compliance with ILO and UN standards;
- increased development assistance in support of Southern groups doing advocacy work such as providing training on labour rights issues and capacity-building for worker and community organizations, and support and training for Southern human rights, labour and religious groups involved in on-the-ground labour rights monitoring;
- improved consumer access to information or corporate disclosure legislation to strengthen the consumers' right to know where apparel is made and under what conditions;
- improved citizen access to information on government programs providing various forms of support to Canadian businesses in overseas investments.

Endnotes

[1] Insert quotes and boxes in this chapter come from a variety of sources. Zoila Alvarez's testimony is found in "The Changing Fact of a Global Industry," *Wear Fair Action Kit*, ed. Bob Jeffcott and Lynda Yanz (Toronto: Labour Behind the Label Coalition, 1997), 7; the descriptions of SEWA and of the Committee of Asian Women's signature campaign were compiled from materials received from those organizations.

[2] International Labour Organization, "Export processing zones growing steadily, providing a major source of job creation," Press Release, 28 September 1998.

[3] Our bibliography includes written references documenting conditions for women working in maquila factories and free trade zones from labour, women's groups, non-governmental organizations, and human rights and church groups in Canada, the USA, Asia, Africa, the Caribbean, and Latin America.

[4] Bryne Purchase, "Political Economy of Voluntary Codes: Executive Summary," http://strategis.ic.gc.ca/ssg/ca00796e.html, September 1996 (on file), 2.

[5] Naomi Klein, "The Era of Corporate Rule," *Asian Labour Update* 26 (October 1997–January 1998): 8–9. Neil Kearney, General Secretary of the International Textile, Garment and Leather Workers Federation (ITGLWF) expresses many of these same reservations, although he has been actively involved in a number of code initiatives (E-mail correspondence, 2 September 1998).

[6] For examples of company codes with provisions on the right to organize and bargain collectively, see Nike and Rebock (on file).

[7] IRRC, "Corporate Codes on Global Labor Practices Vary Widely," Press Release, 23 February 1998, http://www.irrc.org/labor/prlabor.htm.

[8] Ineke Zeldenrust and Nina Ascoly. "Codes of Conduct for Transnational Corporations: An Overview," International Restructuring in Industries and Services (IRENE), June 1998, 12–26.

[9] Interfaith Center on Corporate Responsibility, "Principles for Global Corporate Responsibility, Benchmarks for Measuring Business Performance, " *The Corporate Examiner* 24 (September 1995)

[10] The ICFTU Code of Labour Practice is reprinted in Steelworkers Humanity Fund, "Review of Codes of Conduct and Labels Relevant for a Proposed Canadian Task Force on Sweatshop and Child Labour," 9 July 1998, 53–57. It is also located at http://www.icftu.org.

[11] Stephen Beatty, Executive Director, Canadian Apparel Federation, "Presentation to Sub-Committee on Sustainable Human Development of the Standing Committee on Foreign Affairs and International Trade," 3 October 1996.

[12] The Organization for Economic Cooperation and Development (OECD) identifies four "core" labour standards found in International Labour Organization (ILO) and United Nations (UN) Conventions as human rights. These are: Freedom of Association and the Rights to Organize and Bargain Collectively; Non-Discrimination (on the basis of race, colour, national origin, sex, religion or other belief, or political or other opinion); as well as prohibitions against Child Labour, and Forced Labour.

[13] Craig Forcese, *Commerce with Conscience: Human Rights and Corporate Codes of Conduct* (Montreal: Canadian Lawyers Association for International Human Rights in collaboration with the International Centre for Human Rights and Democratic Development, 1997), 36–38.

[14] *Ibid.* at 50–53.

[15] *Ibid.* at 49.

[16] Bob Jeffcott, "A Brief History of the Labour Behind the Label Coalition," unpublished paper (February 1998), 3.

[17] *Ibid.*

[18] Bob Jeffcott and Lynda Yanz, eds., "The Wear Fair Charter for Fair Treatment of Garment Workers," *Wear Fair Action Kit* (Toronto: Labour Behind the Labour Coalition, September 1997).

[19] "Labour and Retailers Join in Support of Task Force on the Retail Industry," *BC Federation of Labour News* (20 April 1998).

[20] Ann Weston, "Ethics in the Marketplace: The Manufacturing Sector," in the *Canadian Development Report 1998: Canadian Corporations and Social Responsibility*, ed. Michelle Hibler and Rowena Beamish (Ottawa: The North-South Institute, 1998), 68.

[21] Bob Jeffcott and Lynda Yanz, "Bridging the GAP: Exposing the Labour Behind the Label," *Our Times* (February 1997).

[22] Interview with Mark Anner, past coordinator of the El Salvador Independent Monitoring Group, January 1998.

[23] According to Carolina Quinteros, former GMIES staff person, of the 300 fired workers, only 160 expressed a desire to return to the factory, and of those, about half arrived to receive the telegram announcing their rehiring. E-mail correspondence, 29 August 1998.

[24] Interview with Mark Anner, above note 22.

[25] Bama Athreya, "Codes of Conduct and Independent Monitoring: Strategies to Improve Labor Rights Enforcement," International Labor Rights Fund (24 May 1998), 7.

[26] Discussions with members of the El Salvador Independent Monitoring Group, El Salvador, January 1998.

[27] Athreya, "Codes of Conduct and Independent Monitoring," above note 25 at 9.

[28] Carolina Quinteros, E-mail correspondence, 29 August 1998.

[29] *Ibid.*

[30] Interview with Mark Anner, above note 22.

[31] *Ibid.* It is important to note that GMIES receives no funding from the GAP; to date it has been funded by two Canadian organizations — the Humanities Fund of the Communication, Energy and Paperworkers Union (CEP) and the International Centre for Human Rights and Democratic Development.

[32] Another monitoring example is the short-term intervention of an independent monitor in the dispute at the Phillips-Van Heusen plant in Guatemala, in which a US group, Human Rights Watch, was mandated by P-VH to evaluate whether workers' rights had been violated, and whether a sufficient percentage of workers had joined the union to compel the company, under Guatemalan law, to bargain collectively. See Stephen Coats, "Reflections on the Issue of Independent Monitoring" (U.S./Guatemala Labor Education Project, March 1998), 4.

[33] Honduran Independent Monitoring Group, "Ponencia Sobre Experiencias y Reflexiones del Equipo de Monitoreo Independiente (EMI) en la Empresa Kimi de Honduras" (paper prepared for Meeting on Independent Monitoring, San Salvador, February 1998).

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[41] *Ibid.* at 3.

[42] Neil Kearney, E-mail correspondence, 1 September 1998.

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[44] Interview with Maritza Paredes in El Salvador, January 1998.

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[46] *Ibid.* at 10.

[47] Women Working Worldwide, *Women Workers and Codes of Conduct*, Report of Preliminary Research and Consultation Exercise, (Manchester, UK: March 1998).

[48] *Ibid.* at 11.

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[52] "Editorial: Wait a Minute," *Asian Labour Update* 26 (October 1997–January 1998), 4.

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[55] Interviews with Christine Elwell and Sheila Katz, February 1998.

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CHAPTER 4

Policy Options to Challenge Sweatshop Abuses Internationally

From 1989 to 1993, I worked in a factory that produces Nike shoes in Serang, Indonesia. My job was to dip a rubber sole into a chemical, then slap on a cushioned sole. We were expected to produce 2,500 of these soles an hour. If we did not meet our quota, we had to work overtime until we finished. If you made a mistake on only one pair of shoes, you would be fined $.50. The foreman would yell, "Do It Right."

In 1992, I was making US$1.45 a day. On this salary I had to pay $.50 a day for rent and $.75 for food. If I missed the factory bus, I would have to use the remaining $.20 for transportation.

— Cicih Sukaesih was fired after attempting to organize a union.[1]

In 1995, Canadian consumers bought $8.5 billion worth of apparel. Fifty-eight percent of this clothing was made in Canada, while 42 percent was imported from other countries.[2]

The top ten countries in terms of the dollar value of garments imported to Canada in 1996 were: China (20%), USA (19%), Hong Kong (13%), India (6%), Italy (4%), South Korea (4%), Taiwan (4%), Indonesia (2%) Bangladesh (2%), and Thailand (2%).[3] With the reintegration of Hong Kong as part of China, the reunited Asian giant now accounts for one-third of apparel imports to Canada by value, while China and the United States together account for more than one-half.

Before the advent of the Canada–US Free Trade Agreement (FTA), China, Hong Kong, and Korea were Canada's major apparel suppliers. Since the signing of the FTA in 1989, there has been a huge jump in the value of US garments imported to Canada. Between 1988 and 1995 apparel imports from the United States increased at an average rate of over 25 percent.[4] In recent years, there has also been an increase in Canadian garment exports to the USA that can also be attributed to the FTA and NAFTA (North American Free Trade Agreement). In 1995, Canadian apparel exports to the United States rose by 18 percent, at the same time as European apparel exports to the USA fell by six percent.[5] However, this increase in Canadian exports to the United States does not begin to compensate for the loss in the Canadian industry's share of the North American market. Between 1990 and 1994, the Canadian industry's share of the combined Canada–US market fell from 6.9 to 4.6 percent.[6]

There is a great deal of information available linking sweatshop practices in free trade zones in Asia, Latin America, and the Caribbean with US retailers selling those products in the United States and Canada.[7] This information is available largely as a result of research tied to

consumer campaigns carried out in the USA, and possibly also because there is better access to information legislation in the United States than exists in Canada.

Despite the fact that Canadian retailers are sourcing from many of the same countries (mostly Asian) as their US competitors, much less research has been done linking Canadian retailers to their overseas suppliers and contract factories. An exception is a study by the Canadian Friends of Burma entitled *Dirty Clothes: Dirty System*,[8] which links sweatshop practices in Burma with major Canadian retailers, including Sears Canada, Zellers, and the Hudson's Bay Company. Much more research is needed in this area.

Government Trade Policy

Until the 1980s, Canada's garment industry was relatively protected by tariffs and quotas. Trade liberalization in the garment sector began with the signing of the FTA in 1989, and then was accelerated with the signing of NAFTA with the United States and Mexico in 1994. Under NAFTA, all tariffs will be reduced to zero between Canada, the United States, and Mexico by 2003.

From 1974 to 1994, apparel and textiles didn't fall under GATT (General Agreement on Tariffs and Trade) rules, but under a separate agreement called the Multi-Fibre Agreement (MFA), which involved negotiating, country by country, bilateral quotas concerning the quantity of garments that exporting countries from the South could send into Canada and other Northern countries. In 1994, at the end of the Uruguay GATT round (1974–1994), a new agreement called the Agreement on Textiles and Clothing (ATC) was signed. Under this agreement, the MFA quotas are to be gradually phased out by 2005, and garments and textiles are to fall under general WTO (World Trade Organization) rules.[9]

In 1996, Canada had forty-three bilateral apparel and textile import restriction (quota) agreements in place. Thirty-two out of the forty-three countries for which Canada has import restrictions are WTO members, and therefore those restrictions will have to be phased out completely by 2005.[10] However, quota agreements with non-WTO members, which includes China, can remain in place.

Tariffs are also being lowered under GATT over a ten-year period beginning 1 January 1995, which will reduce the average tariff for imports of garments into Canada from 25 percent to 18 percent.[11]

For the Canadian garment industry, the combination of these changes will probably mean a significant increase in apparel imports, particularly from China, South Asia, and Mexico. According to the International Labour Organization (ILO), total trade liberalization in the garment and textile sector would result in an increase in imports to Canada and the United States of 190 to 305 percent.[12] How Canadian garment exports to the USA will fare in this new free trade environment is uncertain.

While the phasing out of quotas and lowering of tariffs may, at first glance, appear to be advantageous to Third World countries, and therefore worthy of support, it will actually provide advantages for some Third World countries and regions (those that offer lower labour and other production costs; better supplies of fabric, yarn, and other materials; infrastructure for transport and marketing; and nearness to First World markets), and disadvantages for others, those that currently have access to First World markets because of the existence of quotas.[13]

There is considerable debate about the relative impact of the phasing out of quotas and lowering of tariffs on different Southern countries. Most studies anticipate a significant increase in the export garment sector in China, once China becomes a WTO member. Hong Kong's integration with China is seen as providing an additional advantage in terms of marketing expertise. According to Women Working Worldwide, India, Pakistan, and Korea should also be able to significantly increase garment exports because of their low labour costs and access to domestically produced fabrics. Bangladesh, on the other hand, may experience a decline in exports to European and US markets because of a loss of quota advantage and its underdeveloped textile industry. Other Asian countries, including Thailand, Sri Lanka, and the Philippines — which depend on imported fabrics — will find themselves in competition with lower cost producers such as Vietnam and China.[14]

If there are no new terms of global regulation for the apparel industry, the market will become the overriding factor determining the location and price of production. Although this may encourage the relocation of apparel production to poorer countries that need investment and jobs, it will also increase competition between poor countries to offer cheap, flexible, and disciplined workers, as well as other favourable terms of investment.

The consequence for garment workers around the world is increased pressure to compete against each other for jobs on the basis of who is willing to work for the least compensation, under the most flexible (unregulated) conditions.[15]

Future Policy Options

Whatever the negative impact of the phasing out of the MFA and the lowering of tariffs under the WTO and NAFTA, the transition period offers an opportunity to redefine the framework and terms of regulation in the global apparel industry in order to encourage adherence to international labour standards and other ILO and United Nations (UN) Conventions and to promote respect for the rights of garment workers, both in the formal and informal sectors, the vast majority of whom are women.

None of the Canadian policy analysts we interviewed were aware of Canada having any labour rights criteria to condition its trade, investment, or overseas development policies. The only exception, according to Moira Hutchinson of the Steelworkers Humanity Fund, was the inclusion in CIDA INC's (Canadian International Development Agency, Industrial

Cooperation Program) gender guidelines of a clause requiring companies receiving support to abide by the host country's labour laws. She speculates that the clause may have been put under gender because some CIDA-funded projects could have an impact on women workers. Though extremely weak, this was the only specific reference to labour rights criteria of which she was aware.[16]

Despite the fact that a large and growing proportion of the apparel we buy in Canada is imported from countries where labour standards are extremely low and worker and human rights violations are common, Canada has done little to date to address this issue. Canada could play a much more active role through national policy and in multilateral fora to promote adherence to international labour standards and respect for workers' rights. Although international and regional trade agreements do impose some limits on government action, all those we interviewed felt that Canada could be taking a number of steps to promote adherence to core labour rights and other ILO and UN Conventions in countries and by companies producing apparel for the Canadian market.[17]

In order to address issues specific to women workers, the Canadian government must also take into account other Conventions beyond those addressing core labour rights, including ILO Convention 177 on homework and ILO Convention 175 on part-time work, neither of which has been ratified by Canada.[18] Other issues that are high on women garment workers' priority lists, but are not adequately addressed in the core labour rights Conventions, are reproductive rights issues, including pressure to take contraceptives, forced pregnancy testing, and other forms of discrimination on the basis of pregnancy, and the right to bodily integrity, including freedom from physical, psychological, and sexual harassment and abuse.[19]

One occasion in which the Canadian government has shown interest in promoting labour rights overseas has been the support given by Foreign Affairs Minister Lloyd Axworthy and International Trade Minister Sergio Marchi on 5 September 1997[20] for a voluntary code of conduct, the International Code of Ethics for Canadian Business (since renamed the International Code of Practice for Canadian Business).[21] This voluntary code has been endorsed by a number of business organizations and corporations,[22] most of which are in the resource sector.

The code includes extremely general language on values, human rights principles, business conduct and employees' rights, and health and safety. The three provisions on health and safety and labour rights are particularly vague, making only passing reference to respect for freedom of association, child labour, forced labour, and non-discrimination in employment. The code has also been criticized for lacking provisions for monitoring and enforcement, and for the lack of labour and NGO involvement in its development.[23]

As the Steelworkers Humanity Fund notes, "the code contains no provisions for or reference to monitoring or reporting." They also point out that in April 1998, Canadian Occidental

announced that it would be pursuing a joint venture investment in Nigeria — which is generally thought to have an extremely poor record on human rights and environmental issues — referring to the company's adherence to the new code to justify its decision.[24]

A second area in which the federal government has demonstrated interest in labour rights issues has been the issue of child labour. In January 1997, Minister Axworthy announced that the Canadian government would "consider applying child-rights standards to foreign aid and trade assistance programmes."[25] On 23 April, Minister Axworthy announced the creation of the Child Labour Challenge Fund "to support private sector initiatives." Up to $400,000 was to be made available over two years, to "establish partnerships with the private sector for projects such as the development of voluntary guidelines, codes of conduct and consumer labelling practices."[26] As far as we are aware, no company has accessed the fund to date (September 1998).

Given Canada's willingness to consider applying standards regarding child labour to conditions for foreign aid and trade assistance programs, the Canadian government should also be willing to consider applying internationally recognized labour standards covering all workers, including young women workers who make up the bulk of the workforce in overseas contract garment factories.

In the apparel sector in particular, it is difficult to separate the issue of child labour from the problem of sweatshop abuses in general. In most garment factories or subcontract sewing workshops where child labour is often a problem, child labourers are working alongside young, but legal-aged workers, under the same abusive conditions. In some cases, the child labourers are the daughters of adult workers in the same factory, sewing workshop or home-based production units. If these adult women workers received adequate wages, they would not be compelled to enlist the labour of their daughters.

As a number of labour rights advocates have pointed out, one of the most effective ways to address child labour in the apparel and footwear sectors is to promote respect for core labour rights and other ILO and UN Conventions, and to support improved wages and standards for all workers in those sectors.[27]

1. Linking Labour Standards to Quotas and Preferential Tariffs

Despite the phasing out of the MFA and the lowering of tariffs under WTO rules, both quotas and tariffs still play a significant role in apparel trade. Canada could condition access to preferential tariffs and higher quotas (particularly for non-WTO members, such as China, our largest supplier) based on adherence to ILO labour standards. The GATT rules, still valid under the WTO, include provisions called the Generalized System of Preferences (GSP) for non-reciprocal trade benefits for developing country exports. Both the United States and, more recently, the European Union are currently applying labour rights criteria to the granting of preferential tariffs to developing countries.[28]

Under the US GSP, developing countries can export limited quantities of goods, primarily agricultural commodities, into the United States duty free. In 1984, when this program of preferences was renewed by the US Congress, worker rights criteria were attached, based on five key ILO standards.[29] Countries can now be put under review based on their labour rights record. Although products such as garments and apparel, which were deemed to be competitive with US labour-intensive manufactured goods, are specifically excluded from the GSP program, the granting of tariff-free access for other goods is based on a country's overall labour rights record, including labour practices in the garment industry.[30]

According to Steve Coats of the US/Guatemala Labor Education Project (US/GLEP), whether preferential tariffs are protectionist depends on how they are used. For instance, the GSP has been used as a tool of US foreign policy (e.g., to deny tariff relief to Nicaragua under the Sandinistas, and to remove benefits from Chile and Paraguay *at the end* of their dictatorships). However, the GSP has also proved to be an effective tool to support efforts of Southern worker and human rights organizations to improve labour rights standards. This has been possible because the GSP review process is open to civil society participation. Under the GSP review process, citizens' groups can file a petition with the US trade representative, requesting an investigation of worker rights abuses to determine whether or not GSP benefits should be ended.[31]

In the case of Guatemala, US labour rights organizations, such as US/GLEP, have worked in close consultation with Guatemalan worker organizations, including unions organizing in maquiladora garment factories, to intervene in the GSP review process in order to lobby for positive changes in Guatemala, including a raise in the minimum wage.[32]

Between 1985 and 1995, 101 labour rights petitions were filed in the United States, resulting in sixty-three reviews of thirty-nine countries. In cases involving countries such as Sri Lanka, El Salvador, the Dominican Republic, and Guatemala, the GSP review has forced labour rights violators to make significant improvements.[33] According to Pharis Harvey of the International Labor Rights Fund (ILRF), "... [H]owever remote or minor the economic impact might be, [governments] tend to react in positive ways to a review. Repeatedly we have been told by unionists in countries under review that the government had responded to the criticism in the GSP petition more seriously than they had ever reacted to a negative judgement by the ILO's Committee on Freedom of Association or Committee of Experts."[34]

In Europe, the European Union introduced GSP labour conditions in 1995, to be phased in by 1998. On 25 May 1998, the "social clause" to the GSP was adopted by the EU Council. Under the EU provisions, countries meeting standards on freedom of association, collective bargaining, no forced labour, and a good faith effort to eliminate child labour receive lower GSP tariffs.[35]

Because the EU system rewards good labour practices with an additional percentage of lower tariffs, rather than removing tariff-free access if there are significant labour rights abuses, as the US system does, it might be viewed more favourably by Southern governments.[36]

Although Harvey argues that "it might be more proper to describe the US approach as a 'withheld carrot' rather than a 'stick'," Southern governments understandably view the total withdrawal of tariff-free access for some goods as a form of trade sanction, particularly when the carrot is granted and withheld in a fairly arbitrary manner.[37]

To date, some Southern countries, including India and Pakistan, have objected to the EU's GSP clause, expressing fears that it will set a precedent by linking social standards and trade that would affect the WTO (World Trade Organization) negotiations. These governments see low labour costs as being one of the few competitive advantages they have in the global economy, and therefore view efforts to include a social clause guaranteeing core labour rights in trade agreements as being motivated by Northern protectionism.

A. Canada and Preferential Tariffs

Canada's system of preferences is called the General Preferential Tariffs (GPT). Extension of preferential tariffs is not currently subject to any labour rights conditionality. In February 1997, the House of Commons Sub-Committee on Sustainable Human Development issued a report encouraging the government to explore the use of market access and trade promotion measures, including the GPT, as "incentives for exporting countries to eliminate child labour exploitation."[38]

However, in its April 1998 response to the subcommittee's recommendations, the government dismissed the idea of using the GPT to promote the elimination of child labour exploitation, for the following reasons:

1. In the absence of a rules-based approach, trade conditionality may lead to protectionist actions by major trading powers to the detriment of the global trading system.
2. The legitimacy of conditionality is deeply divisive between developed and developing countries.
3. Identifying appropriate types of conditionality (exploitive child labour is not the only candidate) and establishing safeguards against the abuse of conditionality is difficult.[39]

The government also argues that because Canada's import market for products made by exploited child labour is small compared to other major industrialized countries, and because tariff rates are being reduced globally under the Uruguay Round Trade Agreement, "the impact of imposing conditionalities relating to child labour or other issue areas would likely be minimal."[40] Although the subcommittee's recommendation and the government's response focus specifically on the issue of child labour, their arguments are clearly relevant to the use of the GPT to promote adherence to ILO labour standards that include and go beyond the issue of child labour.

Of those we interviewed, Ann Weston of the North-South Institute was the most cautious about Canada unilaterally applying human rights criteria to the granting of tariff benefits, on the grounds that it could unfairly single out the poorest, most vulnerable countries. In a 1994

submission to the federal government's Interdepartmental Committee, she suggested that "action to promote human rights is most likely to be effective and acceptable if it is multilateral, and focuses on positive measures such as assistance in the strengthening of judiciaries."[41] However, in the North-South Institute's 1998 Canadian Development Report, Weston is more supportive of the use of preferential tariffs, under certain conditions:

> Under the General Preferential Tariff, the Canadian government should consider removing all tariffs on imports of textiles, clothing, and footwear from least-developed countries that agree to endorse and enforce certain minimum labour standards. These tariff preferences could be withdrawn if an investigation by the ILO found that the standards were being violated and that the government had subsequently failed to introduce corrective measures.[42]

Craig Forcese of the Canadian Lawyers Association for International Human Rights (CLAIHR) proposes that Canada first "actively pursue the linkage of human rights and trade" through multilateral fora such as the WTO, APEC, and the Free Trade Agreement for the Americas (FTAA), but if those channels prove to be ineffective, Canada should follow the lead of the United States and the European Union in linking labour rights criteria to the extension of non-reciprocal tariff benefits such as the GPT.[43]

Hutchinson believes that Canada could ensure that a policy of linking the preferential tariff to labour rights criteria achieves its objectives without unfairly penalizing developing countries by taking the following steps. First, Canada could offer help to enable less-developed countries to meet the criteria within a specified time period. For example, development assistance to help a government improve its labour legislation and enforcement capacity might be needed. This could be provided directly or through special programs of the ILO. Second, Canada could work with the United States and the European Union to ensure that the application of preferential tariffs by the three jurisdictions is fair and consistent. For example, the three jurisdictions might agree to common processes for the transparent application of preferential tariff policies, such as involving the ILO to determine when criteria have been violated.[44]

Hutchinson's proposal is particularly attractive because it links a multilateral approach in developing common criteria and transparent processes for the application of preferential tariffs with a bilateral approach in the negotiation of development pacts with countries needing support to meet and enforce ILO standards. A development pact approach implies a negotiated long-term and mutually beneficial agreement to improve labour practices and the enforcement of labour standards with one or more developing countries in exchange for increased access to the Canadian market. Because the development pact approach offers incentives rather than being punitive, it may be received more favourably by Southern governments.

B. Development Pacts

In its February 1996 "Discussion Paper on Child Labour," the Steelworkers Humanity Fund (SHF) offers a fairly detailed description of how the development pact approach might be linked to the granting of preferential tariffs under the GPT. Although the focus is on child labour, it is equally relevant to labour standards in general. The paper recommends the following:

- that Canada adopt the European approach of providing additional trade incentives (and/or development assistance) to countries taking steps to meet and enforce ILO standards;
- that trade incentives, development assistance, and labour rights criteria be part of a single package negotiated with the respective country or countries;
- that the same labour rights criteria be applicable to Canada as well as to the developing country;
- that there be both government and private sector involvement;
- that monitoring of adherence to ILO standards and participation in development assistance projects involve workers and other civil society groups; and
- that private sector/NGO codes of conduct, certification processes, and labelling schemes could be strengthened through government import requirements recognizing the certification they provide.[45]

An alternative to the development pact approach, also discussed in the SHF paper on child labour, is the concept of a "border tax adjustment." If applied to the garment sector, the border tax adjustment scheme would place a tax on imported apparel that has not passed a certification and/or labelling process. The tax would be based on a percentage of the value of the product, equal to the cost associated with certification and labelling. Under the scheme, the revenue generated by the tax would be remitted to a supervised development fund through institutions like the ILO or Southern NGOs helping to build the capacity of Southern countries to meet and enforce ILO standards. An advantage to this strategy, noted in the SHF paper, is that it would apply to apparel imported from Northern countries, such as the United States, as well as from Southern countries.[46]

International trade lawyer, Christine Elwell, a proponent of the border tax adjustment strategy, argues that such a tax would be justifiable since it recognizes "costs born related to a social policy obligation." She contends that labour is an input in the production process, and a tax promoting social policy objectives such as the elimination of sweatshop abuses is comparable to a carbon tax to achieve environmental objectives.[47] The SHF paper notes that "it is not yet clear, however, whether a mechanism such as a carbon tax will be acceptable to GATT — and by extension, whether a border tax for social objectives is possible."[48]

Hutchinson referred positively to the principle underlying Elwell's proposal — a principle that also underlies the Rugmark labelling scheme[49] — where the label generates funds to be used to support the efforts and address the needs of workers caught in exploitative situations.[50]

Given that tariffs on imported garments will continue to be substantial, use of the GPT to promote labour rights, particularly through the development pact approach, is an option that should be seriously considered by the Canadian government. However, as long as some labour rights violators, such as China, are major sources of imported garments and remain outside the WTO, continued use of quotas is also an option Canada should consider.

The negotiation of development pacts tied to the granting of preferential tariffs could be targeted to countries with significant trade, aid, and immigration ties with Canada, as well as countries in which there is a serious commitment to improving labour rights. The development assistance provided need not be restricted to strengthening the respective country's capacity to monitor and enforce adherence to ILO labour standards and domestic legislation; it could also go to helping alleviate underlying socio-economic problems contributing to rights abuses.

While rejecting the punitive and arbitrary aspects of the US approach to preferential tariffs, Canada should consider adopting one positive feature — the participation of civil society in the review process concerning the renewal of preferential tariff benefits for particular countries. In the United States, this involvement of civil society in the review process has actually encouraged cooperation between US labour rights advocates and their counterparts in the South.

One interesting possibility is the linking of the development pact approach with a future industry-wide or multi-company code of conduct that includes provisions for independent monitoring, certification, and labelling. Such a private sector/labour/NGO initiative could offer the development pact program a credible labour rights monitoring and certification mechanism. At the same time, preferential tariff benefits and development assistance provided by government through the development pact could strengthen the effectiveness of the private sector/labour/NGO initiative. This linkage would have additional credibility if the industry-wide code and certification system also applied to Canada's domestic apparel industry.

2. Government Procurement Policies

In *Voluntary Codes: A Guide for Their Development and Use*, the Office of Consumer Affairs of Industry Canada notes: "Governments can also encourage compliance by recognizing codes efforts in licences, compliance and enforcement policies, and procurement activities."[51]

Craig Forcese has documented a number of instances in which government procurement policy has been used in Canada and other countries to promote human rights or

environmentally sound practices. He notes that under a 1985 Memorandum to Cabinet on the Greening of Government Operations, federal departments are to develop action plans for the greening of their operations, including their procurement practices.[52]

Forcese also points to a June 1997 bill introduced in the US Congress to require the US federal government and its agencies to give preferences in procurement to businesses that adopt and enforce a corporate code of conduct. It outlines the required elements of such a code. Under this bill, anyone could petition the Department of Commerce to investigate a business's compliance with the code.[53]

Recently, citizens' and consumer groups in the United States and Canada have lobbied civic governments and public institutions to adopt ethical criteria or codes of conduct concerning bulk purchasing and acceptance of corporate sponsorships. Examples include:

- a licensing policy adopted by Duke University (Durham, North Carolina) in which all companies manufacturing products bearing the Duke name and/or logo must comply with the terms of the university's code of conduct;
- a program of the Roman Catholic Archdiocese of Newark, New Jersey, to identify manufacturers of school uniforms and ensure their products are made under ethical conditions;
- a policy by the city of North Olmsted, Ohio, not to purchase, lease, rent, or take under consignment goods produced under harsh sweatshop conditions;
- a policy adopted by the municipal government of St. John's, Newfoundland, to oppose the sale in their city of goods made under sweatshop conditions;
- a campaign in Victoria, Bristish Columbia, calling on the city council to adopt a policy similar to St. John's.

The Duke University policy is particularly notable since it requires licensees to provide the university administration with a list of all factories, contractors, and subcontractors producing Duke merchandise. It also gives the university the right to send independent monitors to investigate the labour practices in those factories and contract shops.[54]

According to trade lawyer Christine Elwell, although the use of government procurement policies is limited by FTA and NAFTA, it might be acceptable if based on the same labour rights criteria for apparel produced in Canada and off-shore. Elwell believes such a procurement policy could favour apparel produced in compliance with ILO core labour standards or a code of conduct based on ILO standards; for instance, apparel could bear a label certifying that the producer is in compliance with the code. She noted that there are parallel policies currently in force in other sectors; for example, the requirement of "end use certificates" for the export and importation of military products. This is a government-administered system of monitoring and regulating how military weapons and equipment will

ultimately be used. The Convention on endangered species operates in a similar manner, requiring import and export permits to monitor and regulate the trade in ivory and certain animals and animal products.[55]

In September 1998, the government of Japan requested that the WTO set up a dispute panel to rule on whether a state of Massachusetts law sanctioning companies that trade with or invest in Burma is in violation of the WTO Agreement on Government Procurement (GPA). The European Union is also expected to make a similar request.[56] While a WTO ruling against the state of Massachusetts would have implications for a future procurement policy adopted by the Canadian government, such a ruling would not necessarily prevent the adoption of human rights criteria for selective purchasing policies.

In *Putting Conscience into Commerce*, Craig Forcese states that "the GPA does not explicitly prohibit the consideration of political or human rights variables in procurement decisions."[57] He refers to current government programs, such as the Canadian Federal Contractors Programme — which requires private sector companies to meet employment equity standards to receive federal contracts — as precedents that should be permitted under the GPA. Forcese concludes that a government procurement policy would be most likely to be acceptable under the GPA if it included the following elements:

- human rights criteria applied at the awards stage, rather than at the bidding stage to exclude suppliers from making bids for contracts;
- human rights performance criteria indicated in the tender document;
- the same standards applied to all bidders irrespective of their country of origin.[58]

Although we haven't been able to obtain specific figures on the value of garments and footwear purchased by the federal government, government departments, crown corporations, and the military, we know that every year the federal government alone purchases $8 billion in goods and services.[59] In adopting a procurement policy tied to adherence to labour rights criteria, the federal government could also set a positive example for Crown corporations and provincial and municipal governments.

3. Product Bans

Although product bans may be an unusual and extreme step for governments to take concerning human and labour rights issues in the apparel sector, there are some circumstances in which this may be justifiable. John Dillon of the Ecumenical Coalition for Economic Justice (ECEJ) notes that under the GATT, Article 20, it is permissible to ban products made by prison labour.[60] Pharis Harvey believes that it would be possible to require countries to prove that certain goods are not produced under those conditions, in order to avoid having those products banned.

Many labour rights advocates believe that since there are clear parallels between bonded and forced child labour and prison labour, there is equal justification for banning goods produced under those circumstances.

In a January 1996 letter to Kathleen Ruff, Coordinator of the Canadian Anti-Slavery Group, from Pierre Gravelle on behalf of the then-Minister of National Revenue David Anderson, Gravelle stated that in the view of Revenue Canada, "The prohibition against the importation of goods manufactured by prison labour also applies to any good produced through the use of bonded or otherwise coerced child labour. It does not, however, address circumstances where child labour is involved in the production of goods, but there is no coercion." The letter also states: "Accordingly, when Revenue Canada receives accurate information that indicates goods may be the product of prison labour, department officials actively investigate the allegations."[61]

However, there is no evidence to date indicating that this policy is being enforced. Nor is there Canadian legislation that explicitly prohibits the importation of goods produced by bonded or forced child labour. In contrast, the US Congress recently passed legislation prohibiting the importation of goods produced by bonded or forced child labour.[62]

In addition to a prohibition on goods produced by slave labour or bonded or forced child labour, there are other circumstances in which product bans or other forms of sanctions might be justifiable. The Canadian Friends of Burma argues that the human rights situation in Burma, and the direct connection of many garment manufacturing companies there to the SLORC (State Law and Order Restoration Council) regime, should trigger Canadian government actions ranging from discouraging Canadian investment in Burma to calling on the Canadian government to "endorse selective purchasing legislation that prohibits legislatures and municipal governments from purchasing goods exported by the SLORC, or those of companies which have dealings with the SLORC."[63] The ruling by the WTO dispute panel on the state of Massachusetts' "Burma law" will obviously have implications for future Canadian government action on this issue.

4. Other Government Policy Options

Forcese outlines a number of examples of attempts to pass bills in the United States that would set out standards for US corporations in certain countries (China, Tibet), or an overall code of conduct for all US corporations functioning overseas, which would have a requirement for companies with operations overseas to report to the Secretary of State on their observance of this code.[64]

Forcese also details the labour rights eligibility conditions that were introduced in 1985 into the statutes governing overseas investment insurance by the US agency, the Overseas Private Investment Corporation (OPIC).[65] The Canadian equivalent to this would be the Export Development Corporation (EDC). OPIC does annual reviews of labour standards for countries. The United States also has labour conditions for its development aid funds. US law

requires that no US development aid funds can be used to support projects or activities that contribute to the violation of "internationally recognized workers' rights" in the recipient country.

5. Labour Rights and Overseas Investment

The Canadian government provides support to Canadian investors and businesses abroad through a variety of support services, financial assistance to research opportunities abroad, insurance and loans through EDC, trade missions, etc. We are not aware of any circumstances in which labour rights conditions are applied to any of these programs.

In 1997, the Steelworkers Humanity Fund (SHF) made a preliminary analysis of two of these programs in relation to labour rights: the EDC and CIDA INC. They concluded that most of the EDC's financing is related to Canadian exports and investments in countries where labour rights are seriously curtailed. The SHF was not able to get the information that would have allowed analysis of Corporate Account activities. However, they found that 77 percent of the concessional loans and 21 percent of non-concessional loans under the Canada Account went to countries that the OECD has indicated have significantly curtailed freedom of association, including China (e.g., Candu reactor sales).[66]

The SHF's view is not that these financing activities should be ruled out (unless there is a situation of gross and systematic violations of human rights, as in Burma). Instead, it proposes that the EDC explore options such as requiring companies seeking financing to sign a code of conduct covering not only their own operations, but also those of subcontractors and suppliers. A code could require not only the protection of core labour rights, but also support for the implementation of existing labour legislation, which is often adequate, but not adequately enforced.[67]

It appears that direct Canadian investment in garment production abroad is less significant than the contracting of production to foreign manufacturers by Canadian retailers. This would suggest that the EDC's activities may be relevant to only a small number of Canadian garment manufacturers. However, there are some notable examples of Canadian direct investment in off-shore apparel manufacture.

A report released in June 1998 by the US International Trade Commission, entitled "Canadian Involvement in Mexico's Maquiladora Industry," states that while most Canadian investment in Mexico's maquilas is in the auto parts sector, investment in the apparel sector is also significant.[68] The report profiles Winnipeg-based Nygard International, "reportedly the largest women's apparel producer in Canada." It notes that Nygard's Tan-Jay/Alia division "operates several contract manufacturing facilities in Mexico and exports approximately 75 percent of its production of women's trousers to the United States."[69]

According to the report, the attraction for Canadian apparel manufacturers to Mexico's maquilas is "the elimination [under NAFTA] of US quotas and duties on apparel and textile

products sewn in Mexico making use of US formed and cut fabric."[70] Under NAFTA, foreign-owned maquila assembly plants in Mexico will also have unrestricted access to the Mexican market beginning in the year 2001.[71] Since Canadian apparel manufacturers will be in direct competition with US and Asian suppliers assembling garments in Mexico, we can anticipate that more Canadian firms will set up apparel assembly operations in Mexico.

Although the number of Canadian apparel manufacturers investing abroad and seeking government assistance may, at this time, be relatively small, the SHF proposal could still have a positive impact on those companies' labour practices. If Canadian companies with operations overseas were required by the Canadian government to agree to a code of conduct as a condition of access to government finance or public subsidies (through the Program for Export Market Development, the EDC, or CIDA), such a code would necessarily apply to the companies' domestic operations as well as their operations abroad. Thus, companies based in Canada or with operations in Canada would be required to take responsibility for subcontracted and home-based labour in Canada as well as labour practices abroad if they wanted to make use of these government programs.

The SHF also analyzed the activities of CIDA INC in relation to countries with serious restrictions on labour rights. CIDA INC provides money for feasibility studies, investment support, and professional services (e.g., designing capital projects) to Canadian companies interested in investment and other activities in developing countries. The SHF found that in 1995, 44 percent of CIDA INC assistance went to projects in countries restricting freedom of association.[72]

As noted above, CIDA INC has no specific criteria on labour or human rights, although companies are expected to comply with CIDA gender guidelines that require recipients of grants to operate within the labour regulations of the host country. Unfortunately, CIDA INC does not address the question of requirements in situations where labour regulations of the host country are inadequate. Again the SHF is not proposing, nor are we proposing, that CIDA INC rule out financing for projects in countries with poor labour rights records. Instead, CIDA should find ways of ensuring that these projects strengthen rather than undermine respect for labour rights. This means that a commitment to labour sector development should be included either within the project or alongside it.

Further research needs to be undertaken to determine the extent to which CIDA INC and other private sector development programs of CIDA are involved in the garment sector. Again, there are currently limits on the information that CIDA will make available, citing commercial confidentiality restrictions.

The possibility of requiring adherence to a code of conduct as a condition for access to government financing should also be explored by Canada at the international level through the Multilateral Investment Guarantee Agency (MIGA) and the International Finance Corporation (IFC), both part of the World Bank Group, and in relation to similar institutions associated with the regional development banks. MIGA was established to promote the flow of private

foreign direct investment to developing countries, by providing political risk insurance coverage against the risks of war and civil disturbance, currency transfer, and expropriation. MIGA also provides technical assistance to member countries to help them attract foreign investment.[73]

6. Development Assistance and Labour Rights

In addition to adopting the development pact approach (see above), the Canadian government through the Canadian International Development Agency (CIDA) could be providing greater support to civil society organizations in the South involved in labour and gender rights training and promotion, and monitoring of adherence to ILO labour standards, voluntary codes of conduct, and local labour legislation.

In Asia, Latin America, the Caribbean, and to a lesser extent in Africa, human rights, Faith, and women's organizations are actively involved in monitoring human and labour rights abuses in free trade zones and maquiladora regions, and in promoting adherence to international labour standards and domestic legislation. This important work is currently being carried out without the sanction of giant Northern apparel companies or Southern contractors, and often without the support of local governments. Canada should not wait until Northern codes of conduct and monitoring systems are developed and endorsed by Northern apparel companies before providing increased support to help strengthen the capacity of Southern groups to play a significant role in the monitoring process. Without the active and informed participation of Southern groups in monitoring, voluntary codes of conduct and certification and labelling schemes will not have legitimacy.

Southern women's organizations and networks, community groups, worker centres, and labour organizations are offering training on labour rights and gender issues to women working in free trade zones and maquiladora factories. A number of overseas development agencies, including the CEP and Steelworkers Humanity Funds and the CAW Social Justice Fund, OXFAM-Canada, and others are currently providing support to Southern women's, labour, and community groups working in free trade zones and surrounding communities. CIDA should consider increasing its support for these and other labour rights initiatives.

All of the foreign policy analysts we interviewed for this study agreed that CIDA and CIDA INC should adopt labour rights criteria, based on ILO standards, for evaluating the projects and programs it supports.

Conclusion

Despite the restrictions placed on government action by international and regional trade agreements, there are a number of options open to the Canadian government to encourage governments and apparel companies to adhere to internationally recognized labour rights and standards. These policy options include preferential tariffs linked to development pacts, procurement policies favouring goods produced under conditions consistent with ILO and UN

Conventions, product bans under specific circumstances, labour rights criteria for the granting of assistance to overseas investors, and development assistance supporting labour rights training and capacity building for Southern involvement in monitoring of labour practices.

Most of these policy options could relate to and be strengthened by a multi-company or industry-wide code of conduct containing mechanisms for independent monitoring, company certification, and "fair trade" labelling. All would be strengthened by civil society and private sector participation.

Endnotes

[1] "Nike Doing It Just?", *Wear Fair Action Kit*, ed. Bob Jeffcott and Lynda Yanz (Toronto: Labour Behind the Label Coalition, 1997) 3.

[2] Industry Canada, *Sector Competitiveness Framework Series, Apparel*, http://strategis.ic.gc.ca/ssg/ap01967e.html (26 September 1997).

[3] Consumer Products Industries Branch, Industry Canada, http://strategis.ic.gc.ca/SSG/ap03198e.html.

[4] Industry Canada, *Sector Competitiveness Framework Series, Apparel*, above note 2 at 10 (on file).

[5] Ann Weston, "Some Notes on Textiles and Clothing after the Uruguay Round," unpublished paper (1997).

[6] Industry Canada, *Sector Competitiveness Framework Series, Apparel*, above note 2 at 9 (on file).

[7] The more notable examples are the GAP in El Salvador, Disney in Haiti, and Nike and Reebok in Asia.

[8] Canadian Friends of Burma, *Dirty Clothes, Dirty System: How Burma's Military Dictatorship Uses Profits from the Garment Industry to Bankroll Oppression* (Ottawa: Canadian Friends of Burma, 1996).

[9] Wenguo Cai, "International Trade in Textiles and Clothing after the Uruguay Round: Opportunities and Challenges for ESCWA Countries," Occasional Papers in International Trade Law and Policy, No. 46 (Ottawa: Centre for Trade Policy and Law, 1997).

[10] Industry Canada, *Sector Competitiveness Framework Series, Apparel*, above note 6.

[11] *Ibid.*

[12] International Labour Organization, *Globalization of the Footwear, Textiles and Clothing Industries* (Geneva: International Labour Office, 1996) 14, 46; cited in Union of Needletrades, Industrial and Textile Employees (UNITE), *People, Work and Innovation — Final Report*, 1997, 28.

[13] Women Working Worldwide, *Phasing out the Multi-Fibre Arrangement — What Does It Mean for Developing Countries' Garment Industries?* (Manchester, UK: Women Working Worldwide, 1997), 3.

[14] *Ibid.*

[15] *Ibid.* at 4.

[16] Interview with Moira Hutchinson, policy analyst/researcher with the Humanity Fund, United Steelworkers of America (USWA), February 1998.

[17] This view was expressed most strongly in interviews with foreign policy analysts such as Tim Draimin, Canadian Council for International Cooperation; Moira Hutchinson, Steelworkers Humanity Fund; Sheila Katz, Canadian Labour Congress; Craig Forcese, Canadian Lawyers Association for International Human Rights; John Dillon, Ecumenical Coalition for Economic Justice; and Christine Elwell, lawyer/trade analyst. Except for the interview with Craig Forcese, which took place in June 1998, all interviews were carried out in February 1998.

Generally the following ILO Conventions are referred to as covering "core labour rights": Freedom of Association and Protection of the Right to Organize, 1948 (No. 87); Right to Organize and Collective Bargaining, 1949 (No. 98); Forced Labour, 1930 (No. 29); Abolition of Forced Labour, 1957 (No. 105); Discrimination (Employment and Occupation), 1958 (No. 105); Equal Remuneration, 1951 (No. 100); Minimum Age, 1973 (No. 138). An additional Convention prohibiting the "most intolerable forms of child labour" will be presented for ratification in June 1999.

[18] The ILO Home Work Convention (No. 177) was adopted on 26 June 1996 and marked a significant step in the recognition of the importance of homeworkers' growing strength in the workforce, and their entitlement to equality of treatment between homeworkers and other wage earners in relation to the rights to organize, protection against discrimination, remuneration, statutory social security protection, access to training, minimum working age, and maternity protection. The ILO Convention on Part-Time Work (No. 175) was adopted in 1994 and established the right to equality (on a pro rata basis) in pay and working conditions for part-time workers.

[19] Women Working Worldwide, *Trade Liberalisation and the Rights of Women Workers. Are Social Clauses the Answer?* (Manchester, UK: Women Working Worldwide, 1997), 2.

[20] Department of Foreign Affairs and International Trade, Press Release, "Axworthy and Marchi Welcome Canadian Business Focus on International Practices," No. 143, 5 September 1997.

[21] "International Code of Practice for Canadian Business," included in Steelworkers Humanity Fund, "Review of Codes of Conduct and Labels Relevant for a Proposed Canadian Task Force on Sweatshop and Child Labour," 9 July 1998, 50–52. Or see http://www.cdnoxy.com/coe.

[22] Canadian business organizations and corporations that have endorsed the International Code of Practice for Canadian Business include: the Alliance of Manufacturers and Exporters of Canada, the Business Council on National Issues, the Canadian Chamber of Commerce, the Conference Board of Canada, Alcan Aluminium, Beak International, Cambior, Chauvco Resources, Kaizen Environmental Services, Komex International, Liquid Gold Resources, Manitoba Hydro, Movado Group, Placer Dome, Profco Resources, Pulsonic Corporation, Reid Crowther International, Sanduga & Associates, Shell Canada, Suncor Energy, Wardrop Engineering, and Canadian Occidental Petroleum.

[23] The only reference to labour rights in this code is the following: "Concerning Employee Rights and Health & Safety, we will ensure health and safety of workers is protected; strive for social justice and respect freedom of association and expression in the workplace; and ensure consistency with other universally accepted labour standards, related to exploitation of child labour, forced labour and non-discrimination in employment." Above note 21.

[24] Steelworkers Humanity Fund, "Review of Codes of Conduct and Labels Relevant for a Proposed Canadian Task Force on Sweatshop and Child Labour," 9 July 1998, 12.

[25] Steelworkers Humanity Fund, "Comments On Ending Child Labour Exploitation — A Canadian Agenda for Action on Global Challenges," March 1997, 2.

[26] Canadian Council for International Cooperation, "Flash" (2 May 1997), 2.

[27] See for example, Gerard Greenfield, "Child Labour in the Toy Industry," *Asian Labour Update* 21 (April–July 1996), and Lynda Yanz and Bob Jeffcott, "Child Labour: Eliminating it is not as simple as it seems," *Briarpatch* (June 1998).

[28] Christine Elwell, *Human Rights, Labour Standards and the New WTO: Opportunities for a Linkage, A Canadian Perspective* (Montreal: International Centre for Human Rights and Democratic Development, 1995); Craig Forcese, *Putting Conscience into Commerce: Strategies for Making Human Rights Business as Usual* (Montreal: Canadian Lawyers Association for International Human Rights in collaboration with the International Centre for Human Rights and Democratic Development, 1997); Pharis Harvey, "U.S. GSP Labor Rights Conditionality: 'Aggressive Unilateralism' or a Forerunner to a Multilateral Social Clause" (Washington: International Labor Rights Fund, n.d.).

[29] Freedom of Association and the Right to Organize (ILO Conventions 87 and 98); Forced Labour (ILO Conventions 29 and 105; Discrimination and Equal Remuneration (ILO Conventions 111 and 100), and Minimum Age (ILO Convention 138).

[30] Harvey, "U.S. GSP Labor Rights Conditionality," above note 28 at 2.

[31] Interview with Steve Coats, Director, US/Guatemala Labor Education Project (US/GLEP), July 1998.

[32] *Ibid.*

[33] Forcese, above note 28 at 79.

[34] Harvey, above note 28 at 6.

[35] *Ibid.* at 2.

[36] European Commission, "Europe" No. 7200, Mon/Tues. 14/15 April 1998, 8. Reprinted from *Agence Europe*, 14/04/1998.

[37] *Ibid.* at 3.

[38] Standing Committee on Foreign Affairs and International Trade/Sub-Committee on Sustainable Human Development, "*Ending Child Labour Exploitation — A Canadian Agenda for Action on Global Challenges* (Ottawa, February 1997), 36–37.

[39] Canada. "Government Response to the Sub-Committee on Sustainable Human Development of the Standing Committee on Foreign Affairs and International Trade on Ending Child Labour Exploitation — A Canadian Agenda for Action on Global Challenges," http://www.dfait-maeci.gc.ca/youth/child_labour-e.asp (2 April 1998), 24 (on file).

[40] *Ibid.* at 24.

[41] Ann Weston, "Review of the General Preferential Tariff," Submission prepared on behalf of The North-South Institute for the Interdepartmental Committee (June 1994), 4.

[42] Ann Weston, "Ethics in the Marketplace: The Manufacturing Sector," in the *Canadian Development Report 1998: Canadian Corporations and Social Responsibility*, ed. Michelle Hibler and Rowena Beamish (Ottawa: The North-South Institute, 1998), 70.

[43] Forcese, *Putting Conscience into Commerce*, above note 28 at 92.

[44] Interview with Moira Hutchinson; Steelworkers Humanity Fund, "Comments on 'Ending Child Labour Exploitation — A Canadian Agenda for Action on Global Challenges'" (March 1997), 4.

[45] Steelworkers Humanity Fund, "Discussion Paper on Child Labour" (1996), 2–3.

[46] *Ibid.* at 7–8.

[47] Interview with Christine Elwell, February and June 1998.

[48] Steelworkers Humanity Fund, "Discussion Paper on Child Labour," above note 45 at 7.

[49] For a general description and one-year assessment see: International Labor Rights Fund, *Rugmark After One Year: Appraisal of a New Effort at Social Marketing in the Interest of Children* (Washington, DC: ILRF, 1996).

[50] Interview with Moira Hutchinson, June 1998.

[51] Canada. Office of Consumer Affairs, Industry Canada, and the Regulatory Affairs Division, Treasury Board Secretariat, *Voluntary Codes, A Guide for their Development* (Ottawa, March 1998), 27.

[52] Forcese, *Putting Conscience into Commerce*, above note 28 at 74.

[53] *Ibid.*

[54] "Sweatshops are Losers at Duke University," *Maquila Network Update* (April–June, 1998).

[55] Interview with Christine Elwell, above note 47.

[56] "Burma: Japan, EU Bring Massachusetts Law to WTO," *BRIDGES Weekly Trade News Digest*, vol. 2, no. 35, 14 September 1998.

[57] Forcese, *Putting Conscience into Commerce*, above note 28 at 101.

[58] *Ibid.*

[59] *Ibid.* at 73.

[60] Interview with John Dillon, February 1998.

[61] Pierre Gravelle, Deputy Minister, Revenue Canada, letter to Kathleen Ruff, Coordinator, Canadian Anti-Slavery Group, 22 January 1996.

[62] Interview with Pharis Harvey, February 1998.

[63] Canadian Friends of Burma, *Burma Links* (October 1996), 1.

[64] Forcese, *Putting Conscience into Commerce*, above note 28 at 81.

[65] *Ibid.* at 83.

[66] Interview with Moira Hutchinson, June 1998.

[67] *Ibid.*

[68] Ruben Mata, "Canadian Involvement in Mexico's Maquiladora Industry," *Industry, Trade and Technology Review* (June 1998), 28.

[69] *Ibid.* at 29.

[70] *Ibid.* at 27.

[71] *Ibid.* at 26.

[72] Steelworkers Humanity Fund, "Comments on Ending Child Labour Exploitation," above note 25 at 2.

[73] Moria Hutchinson, above note 66. Bama Athreya, International Labor Rights Fund, notes that both MIGA and IFC recently adopted worker rights language into their lending criteria.

CHAPTER 5

CORPORATE DISCLOSURE AND CITIZEN ACCESS TO INFORMATION

> *Some individuals and organizations are convinced that the answer to this enforcement problem lies in encouraging consumers to take direct action in the marketplace to penalize firms which fail to observe and enforce appropriate standards. The problem with this approach is that the average consumer does not have access to the information required to permit him or her to make an informed decision. In the absence of meaningful information, the consumer can not police the marketplace.*
>
> — Stephen Beatty, Executive Director, Canadian Apparel Federation[1]

It is impossible to monitor the conditions of garment workers and ensure enforcement of their rights under domestic labour laws, ILO and other international standards, and company or sector-wide codes of conduct, if the workers producing the apparel can not be found and/or believe that their employment will be put at risk if they make formal complaints to ministries of labour or bring labour rights violations to the attention of companies, unions, human rights organizations, or the public. Without information, there can be no effective monitoring or enforcement at any level. As well, without access to information on where the clothes we buy are made and under what conditions, consumers cannot make informed choices based on ethical standards, or demand accountability from retailers and manufacturers.

Information currently available on the contracting practices of Canadian and other retailers operating in Canada is very limited. Even the identity of contractors and subcontractors is viewed as privileged information. While general statistics on trends in the Canadian garment industry are available through Industry Canada and Statistics Canada — numbers of manufacturers and garment workers, decrease in the number of employees per manufacturing unit, decline in unionized percentage of the workforce, number of factory closures, figures on apparel made in Canada and imported from other countries — it is virtually impossible to obtain information through Canadian government or industry sources tracing apparel to its point(s) of production.

Current Situation: What Information Is Available? What Are the Information Barriers?

1. The CA Number

In Canada, apparel is required to include a label indicating the country in which the item was produced, unless it was produced in Canada, and a CA number indicating the company accountable for fibre content and washing instructions.[2] The CA number is the only legally

required labelling mechanism that links clothing to an accountable company. The CA number may belong to the retailer, to the importer, or to the manufacturer, if it was made by a Canadian manufacturer. Consumers can determine to what company the CA number is registered by accessing Industry Canada's on-line database (http://strategis.ic.gc.ca/ssg/cp01120e.html), which also has a link to the RN database in the United States.

However, even if a brand is registered to a Canadian manufacturer, the CA number does not give any information as to whether the garment was made on the manufacturer's premises or further contracted out to a subcontract sewing workshop, or to homeworkers.

2. Corporate Information

With few exceptions, corporations in Canada are under no obligation to release to the public or to interested parties information on their suppliers, licensees, contractors, or subcontractors. As we have seen above, however, under the decree system in Quebec, inspectors hired by a parity committee, which includes union appointees, have the right to carry out workplace investigations without notice, including examining payroll records of employers covered by the decree. As well, manufacturers covered by the women's apparel decree are required to keep records of homeworkers and provide to the parity committee the name, address, the date of delivery and description of the work, quantity of garments, and piece rate paid.[3]

In Ontario, British Columbia, and Manitoba, the Employment Standards Branch of the Ministry of Labour, and in Quebec the Commission des normes du travail, has the power to carry out audits of employers' records when individual claims are made. However, as discussed in chapter 2, the power to carry out audits is infrequently exercised.

Efforts to obtain information from Canadian apparel companies on their domestic and off-shore sourcing practices have been remarkably unsuccessful. In 1996, the Toronto-based Labour Behind the Label Coalition sent out a questionnaire to forty major Canadian apparel retailers, requesting information on their sourcing practices, codes of conduct, and monitoring procedures. Only three retailers responded to the questionnaire, and none of those was willing to share information on its sourcing practices.[4] Also in 1996, in an attempt to resolve complaints of labour violations by Toronto homeworkers sewing for Woolworth Corporation labels, the Homeworkers' Association requested information about the contractors Woolworth was using in Metro Toronto. Woolworth was unwilling to provide any information.[5]

In its study on garment production in Burma, the Canadian Friends of Burma cite an example of the owners of the Arrow shirt label stating that they did very little sourcing from Burma, while shipping records indicated the contrary.[6]

3. Information on Imports

Other than the name of the importer (which in some cases is the retailer itself or a Canadian manufacturer who will resell the product), information on imported apparel is also unavailable through Canadian sources. This information is, however, available through US sources.

Ironically, Canadian citizens are able to get more information about the origins of imported clothing, using US sources, than about Canadian-made clothes. This is because US freedom of information laws are broader than Canadian laws.[7]

Information on imported garments entering Canada or the United States can be obtained through a commercial database of US Customs records. Ships are required by US Customs to provide reports of their entire cargo, and ships generally carry cargo destined for both US and Canadian ports. Reports include the name of the vendor, the item, the quantity, the recipient, and the CA number. This allows for tracing imported garments back to their source. However, this information is only available commercially, from US sources, and at considerable cost.[8] We believe this information should be publicly available through Canadian sources.

Possible Areas for Government Policy Action

1. Consumer Access to Information

The federal government should make available to the public, on request, information on where our clothes were manufactured. One possible mechanism for providing this information would be the CA number. Labour rights advocates we interviewed suggested that the CA mechanism could be adapted to allow the buyer to identify the name and address of the manufacturer and/or supplier or contractor involved in the manufacture of any item of apparel sold in Canada.[9] For imported goods, this information is readily available through customs. For Canadian-made goods, it would have to be provided by the holder of the CA number.

This expansion of the role of the CA number would obviously make its administration more complicated. Since retailers and manufacturers often change suppliers or contractors producing particular items of apparel, regular updating of records would be necessary. As well, it might not be possible to provide information on the lowest level of subcontract labour. Nonetheless, this adaptation of the CA number would make it much easier for citizens and consumers to trace where our clothes are made and under what conditions.

Reference is made in Industry Canada documents on the garment industry to discussions about the possibility of transferring the administration of the CA program from Consumer Affairs to the Canadian Apparel Federation.[10] This can only make access to information more difficult, since the CA number is one of the only mechanisms available to trace apparel sourcing practices. In order to be credible, this information should continue to be publicly administered and available to the public.

Another possible approach, which would go hand in hand with an expanded role for the CA number, would be to increase the reporting requirements of apparel companies to provincial ministries of labour. In the same way that employers are currently required to request permits to employ homeworkers, retailers and manufacturers could be required to report (to a publicly

accessible body) the names and addresses of the contractors and subcontractors they are using at any given time.

Retailers might argue that these requirements would be extremely difficult, if not impossible, to meet because the web of subcontract garment production is not totally under their control. However, such a reporting requirement would force retailers to have up-to-date knowledge of their contractors and subcontractors. It would therefore encourage retailers to eliminate some of the unnecessary levels of subcontracting, which encourage labour rights violations, and to use more reliable contractors. This is consistent with the recommendations made to Woolworth-Canada by the Homeworkers' Association.[11]

Ideally, reporting requirements on domestic contractors and subcontractors would be integrated with the proposal discussed in chapter 2 for a Central Registry for Homeworkers.[12] This would allow for the centralization of information on the whole contract chain of production in Canada, or at least in the provinces where these reforms were introduced.

The fact that provincial governments have jurisdiction over most labour relations, while the federal government has jurisdiction over foreign affairs and trade, makes the issue of where reporting and information should be located a bit complicated. Obviously, it would be preferable if companies were not burdened with multiple and overlapping reporting requirements. However, the sharing of information between provincial bodies receiving reports on domestic contracting practices (such as a Central Registry for Homeworkers) and Consumer Affairs at the federal level, through the CA number program, would allow for consumer access to information from one federal institution.

Although it would not be necessary, and may not be desirable, to include in this central database specific information on individual homeworkers, it would be useful to include information on apparel companies and contractors making use of homework in the manufacture of their products.

Another option was proposed by former Executive Director of the Canadian Apparel Federation, Stephen Beatty, to the Sub-Committee on Sustainable Human Development of the Standing Committee on Foreign Affairs and International Trade. In his presentation, Beatty proposed that the Department of Foreign Affairs and International Trade establish a registry that would "maintain records of foreign companies and countries which failed to meet [a minimum standard governing the use of child labour in developing countries] as well as identifying any which were known to exceed the standard."[13]

Beatty's proposal would tie a government-administered registry to a private sector certification system. He suggests that the registry could "maintain a list of independent, commercial inspection services having a demonstrated ability to inspect and certify the performance of companies based in exporting countries." Although Beatty's proposal is addressed specifically to the problem of child labour, it could just as easily be applied to

labour practices in general, and though it refers to the use of "independent, commercial inspection services," it could also be linked to a monitoring and certification system involving unions and NGOs, as well as private firms.[14]

A third possible option is the model developed in Australia,[15] in which legislation and a voluntary code of conduct require that apparel companies provide information to the garment workers' union on their domestic contractors, subcontractors, and homeworkers. In this case, the union is hoping to eventually extend the code of conduct to require information on off-shore sourcing and contracting practices. In this model, the union has the option to make information on sourcing public if labour rights violations are not rectified.[16]

2. Consumer Choice

Since the apparel industry is so concentrated, and yet functions with a plethora of brand names and specialty stores, consumers often do not know whom they are buying from. For example, the brand names and specialty stores Northern Reflections, Northern Traditions, Footlocker, Randy River, and Weekend Edition are all part of the Woolworth Corporation, yet this is by no means obvious to shoppers. Therefore, another issue to be explored further would be consumer regulations that require the name of the parent company that owns the brand name or specialty store to be publicly displayed on labels and signage. This would allow consumers to identify the real owner behind the brand name or specialty store. If the name of the parent company were also required to be listed on the label, sewers could easily identify the apparel company for which they were sewing.

3. Citizen Access to Government Information

In September 1992, the US National Labor Committee released a report charging that the US Agency for International Development (USAID) and the US Overseas Private Investment Corporation had together provided over $1 billion in aid to help establish export processing zones in Central America and the Caribbean, and for incentives to US companies to invest in manufacturing facilities in the zones, most of which were in the apparel sector.[17]

The report linked human and labour rights abuses in export processing zones with US government support for investment, trade promotion, and factory construction, as well as subsidized financing, technical assistance, and worker training programs for US companies investing in the zones. It caused a major scandal in the United States, and was raised as an issue during the televised debate between vice-presidential candidates Gore and Quayle.[18]

Although it is highly unlikely that the Canadian government is providing comparable support for Canadian investment in export processing zones and/or to off-shore apparel manufacturing, it is extremely difficult under current access to information legislation to determine whether or to what extent Canadian investors in the apparel sector are receiving subsidies, loans, or other forms of support from Canadian governmental agencies.

In Canada, access to government information regarding the operations of Canadian companies in other countries and Canadian companies receiving federal subsidies, loans, or other resources through government sources is also extremely limited. For instance, the Export Development Corporation (EDC) is a crown corporation that provides export loans and insurance and foreign investment insurance to Canadian companies. However, details that would allow researchers to assess the implications of this financing for labour rights outside of Canada are not available. In 1997, the EDC refused a request of the Steelworkers Humanity Fund (SHF) for such information.[19]

Although the EDC's Corporate Account is not subject to the *Access to Information Act,* the EDC's Canada Account, in which decisions regarding financing are referred to government, is subject to the Act. However, a request made by the SHF in 1997 under the Act for information on Canada Account financing had resulted in no substantive information one year later.[20] According to the SHF, the kind of information it was seeking is published regularly by the equivalent US agencies.[21]

We wonder how the Canadian public and the Canadian government can hope to encourage corporate accountability without allowing for even the most basic access to information on where public funds are being allocated and how they are used.

4. Codes, Campaigns, and the Right to Know

While government has been slow to act on, if not resistant to, demands for strengthened citizen and consumer access to information legislation, non-governmental initiatives concerning corporate disclosure and the public's right to know are moving forward.

Independent monitoring and certification systems could potentially offer consumers increased access to information on apparel manufacturing and labour practices. However, as we have seen in chapter 3, a major issue of contention in negotiations for multi-company and industry-wide codes of conduct has been the degree of public access to information on the suppliers and contractors and to information contained in monitoring and certification reports.

Apparel companies have tended to favour monitoring systems in which they maintain control of information — a model in which "professional" private sector certification firms have primary responsibility for monitoring, rather than NGOs, human rights, religious, or labour organizations, and in which monitors are hired by and directly accountable to the company, rather than to a third-party institution that includes labour and NGO representation.

The weakness in this model of "external" monitoring is explained by Bama Athreya of the International Labor Rights Fund:

> Since the external monitor is on contract to the company, the monitor is not free to disseminate information publicly. Instead, a confidential report is issued to the company which the company may or may not disseminate.[22]

In contrast, labour and NGO participants in negotiations around multi-company and industry-wide codes have generally favoured greater transparency in the monitoring and certification processes, and greater involvement of NGOs, religious, human rights, and labour groups in monitoring, certification, and reviews of certifications.

As we have seen above, one major issue in the negotiations of the US Apparel Industry Partnership has been how much information should be provided to the public: information on all inspections or just whether or not a company is certified.[23] In negotiations around the implementation of the Fair Trade Charter in the Netherlands, the issue of who receives monitors' reports continues to be an area of discussion.[24] In Canada, the Labour Behind the Label Coalition has made increased access to information a major objective of its proposed federal task force on sweatshop abuses.[25]

Another example of negotiations for codes of conduct becoming the site of struggle about public access to information is taking place on North American university campuses. Student groups in the United States, and more recently in Canada, are demanding that their universities adopt ethical licensing and bulk purchasing policies. In response to campaigns by Students Against Sweatshops at two major US universities (Duke and Brown), university administrations have agreed to codes of conduct requiring licensees to provide information on their suppliers. However, that information is currently only available to the university administrations. A recently formed campus network called United Students Against Sweatshops (USAS) is now pressuring for provisions in university codes that make that information available to student organizations as well. If those organizations were not satisfied with company compliance with the code, they could make that information public.[26]

Increasingly, Stop Sweatshops campaign activists are also beginning to make corporate disclosure a major focus of their campaign work. In the fall of 1998, two US groups, the National Labor Committee and the People of Faith Network, launched "The People's Right to Know Campaign: a Call for Corporate Disclosure." The NLC's campaign is calling on the US retail giant, Wal-Mart, to publicly disclose the names and addresses of all factories producing its goods worldwide. Although the campaign is focused on one company, the objective is public access to information on the sourcing practices of all apparel companies. Local activists are also being encouraged to introduce a People's Right to Know resolution before their city council, requiring a "sweatshop-free" bulk purchasing policy.[27]

Commenting on the NLC campaign, Neil Kearney, General Secretary of the International Textile, Garment and Leather Workers Federation (ITGLWF), states: "The arguments put forward by the retailers and merchandisers about commercial confidentiality are pretty hollow. It's not their competitors they want to keep in the dark, but rather their consumers. Why shouldn't we know exactly where products are made? If it is good enough for wine, why not for shoes?"[28]

Conclusion

We have looked briefly at two different strategies to achieve greater public access to information on where our clothes are made and under what conditions. In the first example, information would be made available on demand through a public institution, and apparel companies would be required by legislation to report on their sourcing practices to that institution. In the second, citizens' groups, backed by consumer campaigns, attempt to negotiate directly with apparel companies to voluntarily disclose information on their sourcing practices.

We believe that these two strategies need not be in conflict with one another, nor are they mutually exclusive. While government legislation requiring corporate disclosure may be the preferred option, there are no indications that the federal government is prepared to consider introducing such legislation in the near future. However, consumer campaigns demanding corporate disclosure could potentially create a political climate in which government felt compelled to take action, if apparel companies refuse to disclose information voluntarily. Agreements requiring corporate disclosure by local public institutions such as universities, school boards, and civic governments could help create momentum to encourage higher levels of government to take similar action.

Whether negotiations for multi-company codes of conduct, monitoring, and certification systems reinforce pressure for government action or undercut that pressure will depend on the sophistication of the negotiators and the strength of the grass roots movement against sweatshop abuses.

Endnotes

[1] Stephen Beatty, Executive Director, Canadian Apparel Federation, "Presentation to Sub-Committee on Sustainable Human Development of the Standing Committee on Foreign Affairs and International Trade" (3 October 1996).

[2] Industry Canada, "A Guide to 'Made in Canada' Labelling and Advertising" (April 1994); Consumer Products Directorate, "Textile Labelling," http://strategis.ic.gc.ca (25 August 1997).

[3] International Ladies' Garment Workers Union — Ontario District Council and INTERCEDE, *Meeting the Needs of Vulnerable Workers: Proposals for Improved Employment Legislation and Access to Collective Bargaining for Domestic Workers and Industrial Homeworkers*, Brief submitted to the Ontario Government (1993), 3.

[4] Bob Jeffcott, "A Brief History of the Labour Behind the Label Coalition," unpublished paper (February 1998), 3.

[5] *Ibid.* at 5.

[6] Canadian Friends of Burma, *Dirty Clothes, Dirty System: How Burma's Military Dictatorship Uses Profits from the Garment Industry to Bankroll Oppression* (Ottawa: Canadian Friends of Burma, 1996), 26.

[7] All labour rights advocates interviewed indicated that US corporate disclosure requirements, although limited, are superior to those in Canada.

[8] *Ibid.* at 18; Interview with Stephen Coats, Executive Director, U.S./Guatemala Labor Education Project, February 1998.

[9] Interviews with Jan Borowy, former Research Director, ILGWU — Ontario District Council; Alexandra Dagg, Manager, UNITE — Ontario District Council; and Judy Fudge, Labour Law Professor, Osgoode Hall Law School in February 1998; International Ladies' Garment Workers Union, *Designing the Future for Garment Workers*, Technology Adjustment Research Programme (Toronto: ILGWU, 1995), 72.

[10] Industry Canada, *Sector Competitiveness Framework Series, Apparel*, http://strategis.ic.gc.ca/ssg/ap01967e.html (27 September 1997), 7 (on file).

[11] Interview with Alexandra Dagg, Manager, UNITE — Ontario District Council, March 1998.

[12] ILGWU — Ontario District Council and INTERCEDE, *Meeting the Needs of Vulnerable Workers*, above note 3 at 65.

[13] Stephen Beatty, "Notes for presentation by Stephen Beatty to the Sub-committee on Sustainable Human Development of the Standing Committee on Foreign Affairs and International Trade" (3 October 1996), 11–12.

[14] *Ibid.* at 12.

[15] See "The Australian Experience," in chapter 2.

[16] The foundation approach, such as that being explored in the Netherlands, is similar to the Australian model in that a bipartite institution involving labour centrals, apparel industry associations, and NGOs would have the option to make information available if labour rights violations are not rectified.

[17] "Paying to Lose Our Jobs: A special report prepared for the National Labor Committee Education Fund in Support of Worker and Human Rights in Central America" (US National Labor Committee, September 1992).

[18] "Quayle and Gore battle devolves into a hand-to-hand fight about 4 issues," *The New York Times*, 14 October 1992.

[19] Steelworkers Humanity Fund, "Comments on Ending Child Labour Exploitation — A Canadian Agenda for Action on Global Challenges" (March 1997), 8.

[20] *Ibid.* at 8.

[21] Interview with Moira Hutchinson, Steelworkers Humanity Fund, February 1998.

[22] Bama Athreya, "Codes of Conduct and Independent Monitoring, Strategies to Improve Labor Rights Enforcement," International Labor Rights Fund (24 May 1998), 12.

[23] Interview with Pharis Harvey, Director, International Labor Rights Fund, April 1998.

[24] Ineke Zeldenrust, Clean Clothes Campaign, E-mail response to Maquila Solidarity Network questionnaire, 17 April 1998.

[25] Letter to the Honourable Lloyd Axworthy, Minister of Foreign Affairs, 24 June 1998.

[26] "Students Structure Campaigns for Codes," *Maquila Network Update* (September–November, 1998).

[27] National Labor Committee, "The People's Right to Know Campaign, A Call for Corporate Disclosure," n.d.

[28] Correspondence with Neil Kearney, September 1998.

CHAPTER 6

Conclusion and Recommendations

The globalized garment industry of the 1990s is continents wide and layers deep. Globalization and trade liberalization policies have caused profound changes not only in the international division and global organization of labour, but also in how, by whom, and under what conditions our clothes are made in Canada and other countries.

In today's garment industry, giant Northern retailers and super-labels (or marketing firms) largely determine the location and terms of production, while manufacturers are forced to compete for orders by constantly lowering the cost of labour and increasing the speed of production (turnaround time). While high-tech design, marketing, and information management systems are concentrated in the North, the actual production (low-tech and labour-intensive) of a growing percentage of our clothes is shifting to large and medium-size contract factories in the South.

At the same time, rapidly and constantly changing fashion demands of Northern retailers and customers require a maze of subcontracted and home-based production in major Northern cities where short runs of less-standard garments are sewn by non-standard workers. As global competition intensifies, there are increasing pressures on contract manufacturers in the South to also subcontract production to smaller sewing factories and to homeworkers.

The phasing out of Multi-Fiber Agreement quotas by the year 2005 and the elimination of all tariffs between Canada, the United States, and Mexico under NAFTA by 2003 will only accelerate these global processes. Although there is considerable debate about the specific impact of trade liberalization in the garment sector on particular countries in the South, there is general agreement that competitive pressures will increase on countries, manufacturers, and workers to increase productivity and/or the speed of production and to lower labour costs.

For the Canadian garment industry, we can anticipate more plant closures with some manufacturers moving to a high-tech, high-fashion niche market, while others will be forced to enter the subcontracting maze of just-in-time production. Canadian garment workers can look forward to an increasing polarization between a shrinking sector of unionized core workers, and a growing sector of unorganized workers, the majority of whom are immigrant women working in sweatshops and as homeworkers.

The consequences for the women who sew our clothes — the young women migrating from rural areas to export processing zones and maquiladora regions in the South, the immigrant women of colour recruited to a subcontract, home-based underground economy in the North — are precarious, virtually unregulated employment; intensive labour and excessive hours of

work; inadequate wages and few legally required benefits; discrimination on the basis of gender, race, and place of origin; and limited opportunities to organize and improve their situation.

The Regulatory Context

In Canada, the closure of garment factories with the resultant decline in the unionized percentage of the garment workforce and the growth of small contract shops and home-based production has both weakened the bargaining power of the remaining factory workers and made organizing and regulating the working conditions of the new workforce extremely difficult, if not impossible — at least under current legislation.

Although homeworkers and contract shop garment workers in Canada are generally covered by the same employment standards legislation and other legislation as other workers, the semi-clandestine nature of the organization of work in the restructured garment industry makes monitoring and enforcement of minimum labour standards extremely difficult. At the same time, the pressures of global competition and the embrace by many provincial governments of the neo-liberal economic model are being used to justify further reductions in resources allocated to monitoring and enforcement and further moves toward deregulation.

While the government of British Columbia has introduced legislation allowing for anonymous and third-party complaints, the trend elsewhere is to undermine existing rights and protections rather than to strengthen them. The government of Quebec is considering dismantling the decree system, which allows for a form of broader-based bargaining extending some of the benefits of collective bargaining to employees in small contract shops, provides for a limited form of joint liability, and offers some access to information. In Ontario, the government is taking steps to further weaken existing rights and protections contained in the *Employment Standards Act*. None of the current provincial governments appear to be considering reforms to make retailers and manufacturers accountable for the labour practices of their contractors, or to make it easier for home-based and contract shop workers to organize.

Pressures for deregulation are equally present if not stronger in the South, where, in order to attract foreign investment and jobs, Southern governments have created export processing zones offering foreign garment companies access to a cheap labour force along with other attractive terms of investment, including duty-free importation of semi-manufactured goods to be assembled then re-exported, extremely low or non-existent taxes, restrictions or a prohibition on the right to organize, and lax enforcement of labour and environmental standards.

Despite what appear to be overwhelming obstacles to challenging the growing problem of sweatshop abuses in the garment industry, we are now seeing the emergence of a variety of responses from unions and coalition partners, community groups, international labour rights advocates, concerned consumers, and garment workers themselves. These responses include

demands for reform of domestic labour legislation and for enforcement of current legislation; calls for trade and foreign policy initiatives that encourage adherence to international labour rights and standards; pressure on retailers and super-labels for independent monitoring of voluntary codes of conduct and on the industry to negotiate industry-wide codes of conduct with mechanisms for independent monitoring and certification; and experiments with new organizing strategies more relevant to the new organization of garment production in the North and South.

In our view, none of these responses is sufficient in itself. Challenging sweatshop practices in the complex and many-layered garment industry of the 90s, requires a multi-layered strategy that addresses domestic legislative and enforcement issues, trade and foreign policy options, voluntary mechanisms to promote international standards, and the need for new organizing strategies.

Important questions for activists and organizations working at various levels on these issues include:

- How can these responses be integrated so that they complement rather than compete with each other?
- How can debates on the merits of different strategies be carried on in a manner that doesn't further divide an already fractured movement?
- How can real or perceived differences in interests between groups in the North and South be dealt with in a manner that acknowledges those differences, while moving forward on areas of agreement?
- What strategic demands best address the fundamental problems of women garment workers, and have the greatest potential to generate public support and achieve government and industry action, and to open doors for future reforms?

1. Policy Options to Challenge Sweatshop Practices in Canada

In Canada, or at least in Ontario — where there is a relatively strong history of analytical and activist work around the situation of homeworkers — there is a great deal of agreement on the legislative reforms required to make it possible for homeworkers and contract shop employees to organize and defend their rights. These include

- joint and several liability to make retailers and manufacturers liable for the labour rights violations of their contractors;
- the right to make anonymous and third-party complaints;
- a central registry for homeworkers; and
- broader-based bargaining.

The problem isn't the lack of innovative proposals; it is the strong opposition of the private sector to these proposals, the ideological bias of most provincial governments in favour of labour flexibility and deregulation, and the fact that most sectors of the labour movement have made the protection of the rights of core, standard workers a much higher priority than those of non-standard, precariously employed workers.

One essential element in this package of reform proposals, but one around which there is much debate, is the call for some form of broader-based bargaining. This proposal is particularly important because it goes beyond mere enforcement of minimum standards under employment standards legislation and offers the possibility of homeworkers and employees of small contract shops to enjoy some of the benefits of collective bargaining.

Some forms of broader-based bargaining, such as the Baigent/Ready proposal for sectoral certification in British Columbia, would also make it easier for workers in small contract shops to organize. As this proposal not only allows for but encourages workplace organizing, it might be more acceptable to those labour groups who fear that broader-based bargaining might actually discourage organizing and result in weak unions.

The Baigent/Ready proposal would be particularly attractive if sectoral certification provided that, once a majority of the workers in a particular sector were organized, the wage and benefit provisions of the sectoral collective agreement would be extended to cover all workers in the sector, including homeworkers and employees in very small workplaces. This adaptation of sectoral certification, put forward by Diane MacDonald,[1] would integrate the most attractive aspects of the Quebec model of juridical extension with the impetus for workplace organizing contained in the Baigent/Ready proposal.

The proposal for broader-based bargaining based on chains of production, which is favoured by those we interviewed in Ontario, need not be seen as being in contradiction to the BC proposal. We could imagine a system of sectoral certification in which workplace organizing leads to the extension of a collective agreement to cover workers in a chain of production, and once a majority or preponderance (45 percent) of workers in a sector or subsector are organized, the collective agreement would be extended to all workers in the sector or subsector.

Given that the Government of Quebec appears to be moving toward the gradual elimination of the decrees in the garment sector, we can expect that garment workers and their allies in Quebec will be focusing on defending that system, rather than developing alternative proposals. It would be wise for groups in the rest of Canada to pay attention to this Quebec debate and use it as an opportunity to learn from the decree system and to develop and debate alternative proposals.

As important as reform to provincial legislation is in order to make it possible for homeworkers and contract shop employees to organize and defend their rights, reform in one province or one country will not be sufficient to eliminate sweatshop abuses. Alan Howard, Assistant to the President, UNITE, states:

> [E]ffective enforcement standards domestically will not solve the problem, for as we have seen, employers have the option of sending work to shops offshore where workers are often even more vulnerable to abuse. Transnational corporations and the production systems they have developed have outraced the ability of laws to follow them across national borders.[2]

2. Policy Proposals to Challenge Sweatshop Practices Internationally

In an era of trade liberalization and deregulation, many labour rights activists are putting increasing emphasis on confronting high-profile apparel companies directly and demanding that the apparel giants live up to their own codes of conduct or other statements regarding their corporate social responsibility. The growing movement against sweatshop abuses has pushed the debate beyond questions of corporate self-regulation toward a discussion of how civil society might participate in the monitoring of supplier compliance with voluntary codes. The debate is now focused on the terms of industry-wide codes of conduct, external or independent monitoring, and certification of Southern suppliers and Northern apparel companies.

On the positive side, whatever the weaknesses of voluntary codes of conduct, they have provided a focus for discussion and debate on how corporate labour practices might be monitored across national boundaries and how corporations might be held accountable for practices in other countries. On the negative side, debates around codes of conduct, independent monitoring, and certification systems have exacerbated already existing divisions between unions, women's groups, and human rights groups in the South, particularly around the respective roles of unions and monitoring groups. These debates have also provoked tensions between Northern groups negotiating global systems of monitoring and certification and Southern groups either demanding participation in the negotiation and monitoring processes or dismissing the process altogether.

As the actual terms of global monitoring, accreditation, and certification mechanisms are being spelled out, new debates and differences among Northern and Southern groups are emerging on issues such as whether Northern private social auditing firms should be trusted to carry out monitoring and how involved local religious and human rights groups should be in the monitoring process, to whom monitors are accountable and the level of information disclosure required, and what degree of compliance is necessary for companies to become certified as "good corporate citizens."

In the midst of these debates, a more central question — one that is not being sufficiently explored — concerns the interrelationship between these private sector/civil society initiatives;

the trade, investment, and overseas development policies of Northern governments; and the labour and enforcement policies of governments in the North and the South. As we have seen, although trade agreements and other international treaties put definite limits on what national governments are permitted to do to defend domestic industries or regulate the behaviour of transnational corporations, there are many things national governments can do to encourage adherence to internationally recognized labour rights Conventions.

We have discussed a number of specific proposals the Canadian government could adopt to encourage greater adherence to labour rights in the apparel industry in Canada and in other countries. We have also examined how those government policies could complement and reinforce the development and implementation of a Canadian industry-wide voluntary code of conduct, monitoring, and certification system. The following is a brief summary of some of those proposals:

A. Federal Task Force on Sweatshop Abuses

The Canadian government should follow the lead of governments in the United States, the United Kingdom, and Australia in convoking a federal task force on sweatshop abuses in the garment and footwear sectors, and providing financial and other forms of support for this task force. Given the interconnections between the spread of sweatshop practices in other countries and the emergence of similar practices in Canada, we would strongly suggest that a task force address the problem of sweatshop abuses in Canada and off-shore at the same table.

B. Industry-Wide Code of Conduct

As there are now a number of experiences in other countries with attempts to negotiate multi-company and industry-wide codes of conduct along with monitoring, accreditation, and certification systems, it would be important that a task force consult with groups involved in these initiatives to learn what might be applicable to the Canadian reality, and what issues need to be addressed and what problems avoided. Given some of the tensions that have arisen in the development and application of other models, it would be equally, if not more, important that Southern labour, human rights and women's groups, and policy analysts be consulted early on in the process, and, as much as possible, be given the opportunity to have direct input into the discussions.

Without advocating one model over another, we would strongly suggest that for any system to be successful, there must be mechanisms for active and ongoing participation of unions and NGOs in a decision-making, rather than in a purely consultative role. This applies to all stages in the process of developing and implementing an industry-wide code and monitoring system, including definition of criteria, decisions around membership, accreditation of monitors, the monitoring process itself, assessment of monitors' reports, certification of companies, and review of accreditations and certifications. The issue of transparency of these processes is not only crucial for the credibility of the initiative with participating unions and NGOs, but also for its credibility with consumers and citizens.

Although there may be justification for the involvement of Northern social auditing firms and/or other private firms or individuals in some aspects of global monitoring, the knowledge, experience, and trust by workers that many Southern NGOs and labour groups bring to the monitoring process is the essential ingredient that would make monitoring effective and credible. Again, we would suggest that Southern groups need to be actively involved in the monitoring process, rather than merely being consulted by Northern "experts."

Since compensation would be needed by Southern groups involved in the monitoring process, and since trust by workers and the broader community in any society is such an important factor in making monitoring effective and credible, we would suggest that any funding for independent external monitoring that is provided by apparel companies, whether it be for the services of Northern professionals or Southern NGOs, be channelled through an independent third-party institution. In that respect, the foundation model, such as that being developed in the Netherlands, offers definite advantages.

Two other important considerations for a task force would be (1) the inclusion of provisions in the code requiring suppliers to abide by local labour legislation where that legislation is superior to or more inclusive than the terms of the code, and (2) provisions requiring that the terms of the code also apply to all subcontractors and the use of home-based production.

Attempts to apply independent monitoring to the subcontract maze of the Canadian garment industry would be difficult and controversial; therefore, we would propose that a task force consider including provisions in an industry-wide code requiring apparel companies to cooperate with periodic inspections and audits of their contractors' practices by appropriate ministries of labour, and to provide information on their contractors, subcontractors, and the use of homeworkers in Canada to the foundation or other governing body for the code, but also to appropriate provincial ministries of labour and/or tripartite bodies.

An alternative would be to follow the Australian example and require that this information on contractors, subcontractors, and the use of homeworkers be provided to the garment workers' union. However, since the garment workers' union or another related labour organization would be represented on the code foundation or other governing body, this might be unnecessary.

C. Trade and Investment Support

As an incentive to Canadian apparel companies to seek certification under a multi-company or industry-wide code, the Canadian government could make certification or the seeking of certification a condition of access to government trade and investment support — for example, through the Program for Export Market Development (PEMD), Export Development Corporation (EDC), the Canadian International Development Agency's Industrial Cooperation Program (CIDA INC). As we stated above, since the code would apply to a company's domestic operations as well as its operations abroad, accreditation would require the company to take responsibility for subcontracted and home-based labour in Canada, as well as abroad, if it wanted to make use of these government programs.

The government should also promote policies in international development institutions such as the Multilateral Investment Guarantee Agency and the International Finance Corporation to ensure that international investment financing and insurance programs reinforce ILO labour standards. To be a credible advocate for the rights of workers in international fora, Canada should ratify the ILO Convention on Homework (177) and Part-time Work (175), as well as other ILO labour rights Conventions.[3]

D. Preferential Tariffs and Development Pacts

The federal government should promote adherence to relevant ILO labour rights Conventions, including Conventions 177 and 175, through the negotiation of development pacts, tied to the granting of preferential tariffs. Development pacts negotiated with specific countries with which Canada has significant trade and other relations would provide needed assistance to help those countries bring legislation and enforcement practices in line with internationally recognized labour standards. Development assistance provided as part of the development pact need not be restricted to support for improved monitoring and enforcement of ILO labour standards and domestic legislation, but could also go to helping alleviate underlying socio-economic problems contributing to rights abuses.

As we have suggested above, the development pact approach could be linked with a future industry-wide code of conduct that includes provisions for independent monitoring, certification, and labelling. This would offer the development pact program access to a credible labour rights monitoring and certification mechanism as a resource for its planning and decision making. At the same time, preferential tariff benefits and development assistance provided as part of the development pact would strengthen the effectiveness of the voluntary code.

We have suggested above that there be civil society participation in the review process concerning the renewal of preferential tariff benefits for particular countries. This would allow for the information gained and assessments made of supplier compliance with the industry-wide code of conduct to be fed into the government's review process determining progress in compliance with ILO standards in particular countries.

We have also proposed that Canada work together with the United States and the European Union to ensure that the application of preferential tariffs by the three jurisdictions is fair and consistent. For instance, the three parties might agree to common processes for the transparent application of preferential tariff policies, such as involving the ILO to determine when criteria have been violated.

E. Government Procurement Policies

The federal government should adopt a procurement policy that requires that all apparel purchased by government departments, institutions, and agencies be produced under conditions that satisfy ILO core labour rights and other pertinent ILO Conventions (such as Conventions 177 on the rights of homeworkers, and 175 on part-time work), as well as

adhering to the labour legislation in the appropriate jurisdiction, where that legislation provides for higher standards. This policy should apply equally to apparel produced in Canada and other countries.

One method of determining whether apparel has been produced under labour conditions that meet the standards listed above would be to make reference to a certification process tied to a multi-company or industry-wide code of conduct and monitoring system.

This policy would not only act as an impetus to the development of a monitoring and certification system based on ILO standards, but would also provide a positive example to Crown corporations, provincial and municipal governments, and to public institutions throughout Canada.

F. Development Assistance

In addition to the negotiation of development pacts with specific countries, Canada should provide increased support to strengthen the capacity of Southern human rights, religious, women's, and labour groups to play an informed and effective role in the monitoring of manufacturer compliance with ILO standards and local labour legislation.

The government should also consider increasing its support, through the Canadian International Development Agency (CIDA), for current and future NGO initiatives with Southern women's organizations and networks, community groups, worker centres, and labour organizations that offer training on labour rights and gender issues and other forms of support to women working in free trade zones and living in surrounding communities.

In addition, CIDA should adopt labour rights criteria, based on ILO and UN Conventions, for evaluating projects and programs that it supports.

3. Policy Options to Increase Public Access to Information

The federal government should make available to the public, on request, information on where their clothes were manufactured. One possible mechanism would be to expand the mandate of the CA registration to include information on the manufacturer and/or the contractor(s) that produced the item.

In addition, provincial governments in the four provinces where significant garment production takes place should be encouraged to increase the reporting requirements of apparel companies to require retailers and manufacturers to report (to a publicly accessible body) the names and addresses of the contractors and subcontractors they are using in that province at any given time. This reporting requirement should be integrated with current and future requirements in each province for the registration of companies making use of homeworkers. This information should be communicated to the federal CA registration program and updated on a regular basis.

To be credible, the government must ensure that information is also available to the Canadian public about the various forms of assistance provided to Canadian companies related to their overseas operations. Although the Canadian apparel industry appears to be a small player in terms of direct overseas investment, requirements for government disclosure of information on its support for overseas investment by Canadian companies should be at least as stringent as the above proposals for corporate disclosure.

Areas for Further Research

Throughout our research for this document, we have confronted the problem of the lack of reliable information on the dimensions of home-based and contract shop production in Canada. Although unions, such as the Ontario District Council of UNITE, and a number of academic researchers have done an admirable job in documenting labour rights violations and the problems homeworkers face in particular cities, very little work has been done to document the full extent of the use of homework and contract shop production in Canada and the extent of labour rights violations related to those production practices.

In contrast to the lack of support from federal and provincial governments in Canada for this essential research, we would point to the generous financial support provided by the government of Australia to the garment workers' union in that country to carry out a major national research and public education project that not only documented the extensive use of homework in the Australian garment industry, but also provided homeworkers the opportunity to bring the problems and issues they face to the attention of the union, the government, citizens, and consumers.[4]

A second area in which information is sorely lacking is on the links between Canadian retailers and manufacturers and the labour practices of their suppliers, contractors, and subcontractors in Canada and overseas. We need much more information on:

- where and under what conditions apparel is being produced in other countries for Canadian retailers;
- what apparel is being purchased through importers and what apparel production is being directly contracted to which factories;
- how much apparel is being produced by foreign investors in export processing zones and how much in domestically owned factories, and on the working conditions and other issues facing workers in those factories.

Much more research also needs to be done tracing the links between Canadian retailers and manufacturers and their contractors, subcontractors, and homeworkers in Canada's garment industry.

A major reason for this lack of information is the totally inadequate access to information or

corporate disclosure legislation in this country. However, as the Canadian Friends of Burma[5] have demonstrated, this kind of research is possible, even under current legislation (but only through US sources), and is deserving of support.

Strategy Choices: Steps toward Reform

As we write, the Canadian government is being called upon to convene a federal task force on sweatshop abuses in the garment and footwear industries. The fact that the call for a task force is coming from such a broad range of Canadian organizations and constituencies, including religious organizations, unions, women's groups, human rights groups, community groups, students, overseas development agencies, etc., reflects the current level of awareness and concern about sweatshop abuses that has been generated by recent high-profile corporate campaigns and media exposure of labour rights abuses, particularly in Asia and Latin America.

The apparent willingness of major Canadian retailers, the Retail Council of Canada, and the Canadian Apparel Manufacturers Association to participate in such a task force suggests that this may be the political moment for multi-stakeholder discussions and negotiations on policy options to address sweatshop abuses.

The federal government could take this opportunity to initiate a process in which labour, women's, religious, and non-governmental organizations sit down with apparel retailers and manufacturers and attempt to find common ground on possible solutions to sweatshop abuses. While the initial focus of a task force might be on the negotiation of an industry-wide or multi-company voluntary code of conduct with provisions for independent monitoring, certification, and labelling, consensus could also be sought on proposals for government action that would complement and reinforce a voluntary code — proposals such as those discussed above.

One important issue that deserves to be given priority whether or not a federal task force is convened is the need for increased access to information on where apparel sold in Canada is manufactured. Without access to this information, neither voluntary nor governmental efforts at monitoring labour practices and encouraging improvements in those practices can be effective. If the apparel industry is not prepared to make this information available on a voluntary basis, the federal government could be pressured to create mechanisms, such as the CA registration, to make that information publicly available.

Given the jurisdictional complexities of Canada's labour relations system, and given the reluctance of most current provincial governments to consider proposals to strengthen employment standards and other labour legislation at this time, it might be difficult for a federal task force to develop a consistent set of proposals applicable to all provincial jurisdictions in which garment production is concentrated. However, a task force could examine ways in which apparel retailers and manufacturers might cooperate with the

enforcement of existing provincial legislation, such as periodic audits of contractors by ministries of labour.

Although in the current climate of deregulation most provincial governments appear to be unwilling to consider serious reform proposals — such as joint and several liability — to make retailers and manufacturers more accountable for domestic labour rights violations, it is important that reform efforts be focused not only on off-shore labour practices, or that policy proposals be addressed only to the federal government and/or to the apparel industry. One reform to provincial employment standards legislation that could be achievable in the short term, particularly since it is already in place in British Columbia, is the right to make anonymous and third-party complaints.

A provision for anonymous and third-party complaints would not only lessen the fear of possible loss of employment which prevents many homeworkers and employees of small contract shops from reporting employment standards violations, it could also be a tool for unions and community groups to document the nature and extent of violations in the garment industry and to pressure for adequate monitoring and enforcement of that legislation by provincial ministries of labour. Information received anonymously by third-party advocacy groups could also help document the labels homeworkers are sewing for, and therefore could be used to pressure for measures to make retailers and manufacturers more accountable, such as joint and several liability and a central registry for homeworkers.

Although we see broader-based bargaining as an essential reform for homeworkers, contract shop employees, and other non-standard workers to organize and improve their own situation, this reform will not be high on the agenda of any provincial government unless and until it is identified as a priority by the labour movement. For that to happen, the issue must be taken up within the labour movement by the unions representing workers in the affected sectors and by women's and workers-of-colour caucuses within unions.

Lastly, a key question that requires further attention, and which is not explored in this paper: To what degree are the federal and provincial governments, the women's movement, religious organizations, NGOs, and trade unions in the garment sector and in the broader labour movement prepared to make the problems, issues, and needs of women garment workers a priority, whether they work in overseas export processing zones or sweatshops here in Canada?

Without the concerted support of all these sectors, women working under sweatshop conditions will not be able to organize to improve their situation.

Summary of Recommendations

1. To the Canadian Government

   1. Convene a multi-stakeholder federal task force on sweatshop abuses in the garment and footwear industry in Canada and overseas, and provide financial and other forms of support for it. Although such a task force might initially focus on the garment and footwear sectors, its focus could be expanded, and the principles established could be applied to other consumer products sold by many of the same retailers.

   2. Make certification under an industry-wide or multi-company code of conduct and/or adherence to relevant ILO labour rights Conventions a condition for access to government trade and investment support (for example, for access to the PEMD, EDC, or CIDA).

   3. Promote policies in international development institutions, such as the Multilateral Investment Guarantee Agency and the International Finance Corporation, to ensure that international investment financing and insurance programs reinforce ILO labour standards.

   4. Ratify ILO labour rights Conventions, including Convention 177 on Homework and 175 on Part-time Work.

   5. Promote adherence to relevant ILO labour rights Conventions through the negotiation of development pacts, tied to the granting of preferential tariffs. Such a program could be linked with a voluntary industry-wide or multi-company code of conduct that includes provisions for independent monitoring, certification, and labelling.

      Create mechanisms for civil society participation in the review process concerning the renewal of preferential tariff benefits for particular countries.

      Work together with the United States and the European Union to ensure that the application of preferential tariffs by the three jurisdictions is fair and consistent.

   6. With respect to countries outside of the WTO, consider the continued application of quotas for garments if there is systematic violation of labour rights.

      Consider the application of product bans for apparel produced by prison labour or forced child labour, and restrictions on investment in and importation of products from countries with a pattern of ongoing and systematic violations of human rights.

   7. Adopt a procurement policy that requires that all apparel purchased by government departments, institutions, and agencies be produced under conditions that satisfy pertinent ILO labour rights Conventions. This policy could be linked to a voluntary code, monitoring, and certification system.

8. Provide increased support to strengthen the capacity of Southern human rights, religious, women's, and labour groups to play an effective role in independent monitoring, and for NGO initiatives with Southern women's organizations, networks, community groups, worker centres, and labour organizations that offer training on labour rights and gender issues related to free trade zones.

9. Create a mechanism, such as an expanded mandate for the CA registration, which would provide for public access to information on where clothes sold in Canada are manufactured. Exchange information with appropriate provincial government bodies to maintain and make available to the public on request updated information on apparel companies' use of jobbers, contractors, and homework.

10. Ensure public access to information on governmental support to Canadian companies investing abroad, including loans, insurance, foreign investment insurance, and other forms of assistance.

11. Provide increased support for research on homework and contract shop production in Canada, the sourcing practices of Canadian retailers and manufacturers in Canada and overseas, and labour practices of suppliers and contractors producing apparel for the Canadian market.

2. To Provincial Governments

1. Introduce legislation providing for joint and several liability all along the chain of production from retailers to subcontractors for employment standards violations.

2. Introduce provisions allowing for anonymous and third-party complaints regarding violations of employment standards legislation.

3. Provide sufficient financial resources and staffing to the Employment Standards Branch to facilitate the timely investigation of complaints. Make a serious commitment to enforce decisions and prosecute violators who fail to pay fines. Implement routine and proactive ESB inspections and audits in order to send a clear message to employers that violations will not be tolerated.

4. Create a central registry for homeworkers, administered by a tripartite committee. Require employers to apply to the registry for a permit to employ homeworkers, and to register all homeworkers doing work for them. Mandate the registry to provide information and counselling to homeworkers regarding their legal rights, and to act as an agent for homeworkers concerning violations of those rights. Require all entities in the garment chain of production to register and to provide information on the jobbers and contractors producing for them.

5. Consider implementing a system of broader-based bargaining, at least covering

workers in the garment sector, building on the experiences and proposals discussed in this document and in consultation with relevant unions and other interested parties.

3. To a Future Task Force on Sweatshop Abuses

1. In order to learn from other experiences and avoid unnecessary problems, a task force should consult early on in the process with participants in parallel initiatives already under way in other parts of the world. It should also consult with and create opportunities for input from Southern labour, women's group, human rights and labour rights advocates, and policy analysts.

2. If the task force determines to negotiate an industry-wide or multi-company code of conduct, monitoring, and certification system, mechanisms should be created to ensure active and ongoing participation of labour and civil society groups in the definition of criteria, decisions on membership, accreditation, monitoring, assessment of reports, certification of companies, and review of accreditations and certifications. Mechanisms should also be created to facilitate the active participation of Southern labour, NGO, human rights, and women's groups in the monitoring, accreditation, and certification review processes.

3. Any funding provided by retailers or apparel companies for monitoring and other related processes should be channelled through a third-party institution in which labour and civil society groups share equal decision-making power with retailers and manufacturers.

4. An industry-wide or multi-company code of conduct should include provisions requiring retailers, apparel companies, and suppliers to abide by local labour and other appropriate legislation, where that legislation is superior to or more inclusive than the terms of the code. The terms of the code should also apply to all subcontractors and to home-based production. Such a code should contain provisions requiring companies and suppliers to cooperate with periodic inspections and audits by appropriate ministries of labour and/or tripartitie bodies.

5. A task force should attempt to achieve agreement on a set of proposals for government action to reinforce and complement the voluntary code, as well as agreement on mechanisms to ensure industry cooperation with the enforcement of existing provincial labour legislation.

6. A task force should also attempt to achieve agreement on mechanisms to ensure public access to information on sourcing practices of apparel companies.

7. A task force should consider developing a label or other mechanism to indicate to consumers that apparel has been produced under conditions that are in compliance with the code of conduct.

Endnotes

[1] Diane MacDonald, "Sectoral Certification: A Case Study of British Colombia," *Canadian Labour and Employment Law Journal* 5 (1998), 243–86.

[2] Alan Howard, "Labor, History, and Sweatshops in the New Global Economy," *No Sweat: Fashion, Free Trade, and the Rights of Garment Workers*, ed. Andrew Ross (New York and London: Verso, 1997), 167–68.

[3] Of the seven International Labour Organization (ILO) Conventions that generally are referred to as constituting "core labour" rights — Freedom of Association (No. 87 and No. 98); Forced Labour (No. 29 and 105); Discrimination (No. 100 and 111), and Child Labour (138) — Canada has ratified only Nos. 87, 105, 100, and 111. The justification often used by the Canadian government for not ratifying labour-related Conventions is that in Canada, provincial governments have jurisdiction over most labour relations matters. Several basic labour rights are also included in the Universal Declaration of Human Rights, the Covenant on Civil and Political Rights, and the Covenant on Economic, Social and Cultural Rights, all of which Canada has ratified.

[4] Textile, Clothing and Footwear Union of Australia, *The Hidden Cost of Fashion: Report on the National Outwork Information Campaign* (Sydney, NSW, Australia: TCFUA, 1995).

[5] Canadian Friends of Burma, *Dirty Clothes, Dirty System: How Burma's Military Dictatorship Uses Profits from the Garment Industry to Bankroll Oppression* (Ottawa: Canadian Friends of Burma, 1996).

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APPENDIX A: Consultation List

Anderson, Barbara — Stop Sweatshops Coordinator
Union of Needletrades, Industrial and Textile Employees (UNITE), Toronto

Anderson, Nancy — Acting Manager, Employment Standards Branch
Government of Manitoba

Anner, Mark — Former Coordinator, El Salvador Independent Monitoring Group
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Athreya, Bama — Researcher/Writer
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Beaulieu, Jean Rene — Indonesia Program Officer, CIDA Industrial Cooperation Program
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Bendana, Alejandro — Centro de Estudios Internacionales
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Montreal

Borowy, Jan — Jobs and Campaign Officer, Ontario Public Service Employees Union
Formerly, Research Director, UNITE Ontario District Council — Toronto

Bronson, Diana — International Centre for Human Rights and Democratic Development
Montreal

Burns, Maggi — Researcher/Writer
Ethical Trading Initiative, UK

Coats, Stephen — Director
US/Guatemala Labor Education Project

Dagg, Alexandra — Manager
Union of Needletrades, Industrial and Textile Employees — Ontario District Council

Delaney, Annie — National Outwork Coordinator
Textile, Clothing and Footwear Union of Australia, Victoria

Delahanty, Julie — Researcher
North-South Institute, Ottawa

Deveroux, Linda — National Grouping on Homeworking
Leeds, UK

Dillon, John — Researcher/Policy Analyst
Ecumenical Coalition for Economic Justice, Toronto

Draimin, Tim — Adviser
Canadian Council for International Co-operation, Ottawa

Elwell, Christine — Adjunct Professor of Law
Queen's University, Kingston

Forcese, Craig — Author
Canadian Lawyers Association for International Human Rights, Ottawa

Fowler, Bill — Secretary-Treasurer, Victoria Labour Council
Victoria

Fudge, Judy — Labour Law Professor
Osgoode Hall Law School, Toronto

Gearhart, Judy — Researcher
Council on Economic Priorities, New York

Gellatly, Mary — Community Legal Worker
Parkdale Community Legal Clinic, Toronto

Gordon, Shelly — Co-ordinator
Workers Information and Action Centre, Toronto

Greenfield, Gerard — Researcher
Asia Monitor Resource Center, Hong Kong

Hale, Angela — Researcher/Writer
Women Working Worldwide, Manchester, UK

Harvey, Pharis — International Labor Rights Fund
Washington

Hutchinson, Moira — Researcher
Steelworkers Humanity Fund, Toronto

Katz, Sheila — NAFTA Desk
Canadian Labour Congress, Toronto

Kearney, Neil — General Secretary of the International Textile, Garment and Leather Workers Federation (ITGLWF), Brussels, Belgium

Legg, Phillip — Director of Research, British Columbia Federation of Labour Vancouver

Newman, Neil — International Labour Resources and Information Group (ILRIG) Woodstock, South Africa

Paredes, Maritza — Honduras Independent Monitoring Group Choloma, Honduras

Pineda, Magaly — Centro de Investigación para la Acción Feminina (CIPAF) Dominican Republic

Quinteros, Carolina — El Salvador Independent Monitoring Group San Salvador, El Salvador

Ramos, Sandra — Movement of Working and Unemployed Women Managua, Nicaragua

Salvador, Tony — Network of Labour Institutions Quezon City, The Philippines

Tate, Jane — International Network for Home-based Workers (HomeNet) Leeds, UK

Wade, Scott — Policy Director Canadian International Development Agency (CIDA), Ottawa

Weston, Ann — Vice-President/Trade Policy Expert North-South Institute, Ottawa

Zeldenrust, Ineke — Clean Clothes Campaign (Netherlands) Amsterdam, The Netherlands

APPENDIX B: Maquila Solidarity Network

Since 1995, the Maquila Solidarity Network (MSN) has played a leading role in Canada's emerging Stop Sweatshops movement, supporting the efforts of garment and toy workers in Canada and internationally to improve their working and living conditions.

In 1996, MSN helped launch the Labour Behind the Label Coalition which coordinates campaigns pressuring giant retailers such as the GAP, Nike, Woolworth, and Mattel to take responsibility for the conditions under which their products are made. In 1997, the coalition launched a campaign calling on the federal government to convene a task force on sweatshop abuses. The MSN acts as the secretariat and educational office for the coalition.

MSN also promotes solidarity between Canadian labour and social movement groups and Mexican, Central American, and Asian counterparts organizing to raise standards and improve conditions in maquiladora factories and export processing zones.

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